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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BEAU ENGLISH, Derivatively on Behalf of
GRANITE CONSTRUCTION
INCORPORATED,

Case No.

Plaintiff,

V.

JAMES ROBERTS, JIGISHA DESAI,
LAUREL J. KRZEMINSKI, CLAES G.
BJORK, PATRICIA D. GALLOWAY, ALAN
P. KRUSI, JEFFREY J. LYASH, GADDI H.
VASQUEZ, DAVID C. DARNELL, CELESTE
B. MASTIN, DAVID H. KELSEY, JAMES W.
BRADFORD, JR., MOLLY CAMPBELL, and
MICHAEL F. McNALLY.

VERIFIED STOCKHOLDER DERIVATIVE COMPLAINT

DEMAND FOR JURY TRIAL

Defendants.

-and-

GRANITE CONSTRUCTION INCORPORATED.

Nominal Defendant.

1 Plaintiff Beau English (“Plaintiff”), by and through his attorneys, alleges the following upon
 2 information and belief, except as to those allegations concerning Plaintiff, which are alleged upon
 3 personal knowledge. Plaintiff’s information and belief is based upon, among other things, his
 4 counsel’s investigation, which included a review and analysis of, among other things: (a) Granite
 5 Construction Incorporated’s (“Granite” or the “Company”) filings with the U.S. Securities and
 6 Exchange Commission (“SEC”); (b) Granite’s press releases, website pages, corporate governance
 7 documents, presentations, conference calls, and other publicly disseminated information; (c) analyst
 8 reports, public records, and other publicly available information concerning Granite; and (d) the
 9 pleadings filed in a federal securities class action captioned as *Greene v. Granite Construction Inc.*,
 10 Case No. 4:19-cv-4744-WHA (N.D. Cal.) (“Securities Class Action”).

11 **NATURE OF THE ACTION**

12 1. This is a stockholder derivative action asserting claims for breach of fiduciary duty,
 13 unjust enrichment, and violations of Sections 10(b) and 20(a) of the Securities Exchange Act of 1934
 14 (“Exchange Act”) during April 30, 2018 through October 24, 2019 (“Relevant Period”) brought on
 15 behalf of nominal defendant Granite against certain current and former officers and members of the
 16 Company’s Board of Directors (“Board”).

17 2. Granite is a construction company that builds large infrastructure projects. Granite
 18 bids and completes both public and private projects including building streets, roads, highways, and
 19 bridges.

20 3. At issue in this derivative action are the Company’s four largest “mega projects,”
 21 which were worth more than \$7.5 billion: (1) Florida I-4 Ultimate Improvement Project (the “I-4
 22 Project”); (2) New York Tappan Zee Bridge Hudson River Crossing Project (the “Tappan Zee
 23 Project”); (3) Pennsylvania Department of Transportation (“PennDOT”)Rapid Bridge Replacement
 24 Project (the “Rapid Bridge Project”); and (4) Texas IH 35 E Managed Lanes Project (the “IH 35
 25 Project,” and, collectively with the I-4 Project, the Tappan Zee Project, and the Rapid Bridge Project,
 26 the “Projects”).

1 4. Granite won the Projects on a fixed price basis with extremely limited options to
 2 obtain additional compensation in unanticipated situations such as delays, cost overruns, or
 3 inefficiencies. Thus, the Company assumed a high risk of having no viable mechanism to make up
 4 for cost overruns.

5 5. The Company used the percentage-of-completion method for accounting for the
 6 Projects, which compares the costs incurred at a specific point in time to the total costs to complete
 7 the project to calculate a percentage. The Company then used this percentage to recognize the
 8 revenues and profits. Because the percentage method is critical to recognizing profits, Generally
 9 Accepted Accounting Principles (“GAAP”) mandates that companies include all costs in the
 10 percentage calculation immediately. Nevertheless, the Individual Defendants (defined herein)
 11 intentionally excluded known costs from the percentage calculation, thereby inflating the
 12 Company’s revenues and profits by hundreds of millions of dollars.

13 6. Further, the Individual Defendants assured investors and the public that the Company
 14 was properly accounting for problems and setbacks with the Projects and that the Company was
 15 shifting its business to smaller and less risky projects.

16 7. During the Relevant Period, the Individual Defendants made materially false and/or
 17 misleading statements, as well as failed to disclose material adverse facts, about the Company’s
 18 business, operations, and prospects. Specifically, the Individual Defendants knowingly inflated
 19 the Company’s revenue, income, and margins in violation of GAAP, which rendered Granite’s
 20 financial results issued during the Relevant Period materially false and misleading.

21 8. While Granite’s stock price was artificially inflated because of the fraud, the
 22 Individual Defendants also caused the Company to carry out a previously announced but dormant
 23 stock repurchase plan. As detailed below, the Individual Defendants caused Granite to buy back its
 24 own shares on the open market at prices that far exceeded the Company’s intrinsic value, thus
 25 depleting the Company’s assets for the Individual Defendants’ personal gain.

26 9. The Individual Defendants breached their fiduciary duties of loyalty and good faith
 27 and committed other violations of law by willfully engaging in the wrongdoing as alleged herein.

1 10. As a direct and proximate result of the Individual Defendants' breaches of fiduciary
2 duties, Granite has sustained damages as described below.

JURISDICTION AND VENUE

4 11. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 because the Complaint raises
5 a federal question under Sections 10(b) and 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78t(a),
6 and 78t-1), and SEC Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder. This Court has
7 exclusive jurisdiction over the federal securities laws claims under Section 27 of the Exchange Act,
8 15 U.S.C. § 78aa, and supplemental jurisdiction over the pendent state law claims pursuant to 28
9 U.S.C. § 1337(a) because the state law claims form part of the same case or controversy. This action
10 is not a collusive action designed to confer jurisdiction on a court of the United States that it would
11 not otherwise have.

12 12. This Court has jurisdiction over each defendant named herein because each defendant
13 is either a corporation that conducts business in and maintains operations in this District, or is an
14 individual who resides in this District or has sufficient minimum contacts with this District to render
15 the exercise of jurisdiction by the Court permissible under traditional notions of fair play and
16 substantial justice.

17 13. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because nominal party
18 Granite maintains its principal executive offices in this District, one or more of the defendants either
19 resides in or maintains offices in this District, a substantial portion of the transactions and wrongs
20 complained of herein, including defendants' primary participation in the wrongful acts detailed
21 herein and violation of fiduciary duties owed to Granite occurred in this District, and/or defendants
22 have received substantial compensation in this District by doing business here and engaging in
23 numerous activities that had an effect in this District.

PARTIES

25 14. Plaintiff is a stockholder of Granite, was a stockholder of Granite at the time of the
26 wrongdoing alleged herein, and has been a stockholder of Granite continuously since that time

1 15. Defendant Granite is incorporated under the laws of Delaware with its principal
 2 executive offices located in Watsonville, California. Granite's common stock trades on the New
 3 York Stock Exchange under the symbol "GVA."

4 16. Defendant James H. Roberts ("Roberts") has served as the Company's President and
 5 Chief Executive Officer ("CEO") since September 2010 and as a member of the Company's Board
 6 since 2011. He also served as the Company's Executive Vice President and Chief Operating Officer
 7 from September 2009 to August 2010, Senior Vice President from May 2004 to September 2009,
 8 Granite West Manager from February 2007 to September 2009, Branch Division Manager from May
 9 2004 to February 2007, Vice President and Assistant Branch Division Manager from 1999 to 2004,
 10 and Regional Manager of Nevada and Utah Operations from 1995 to 1999. In the Company's most
 11 recent annual proxy statement, the Company listed as one of his purported qualifications Roberts's
 12 "insider's perspective of the Company's day-to-day operations and the strategic direction of the
 13 Company" Defendant Roberts is named as a defendant in the Securities Class Action.
 14 According to the Company's public filings, defendant Roberts received \$4,126,623 in 2018 in
 15 compensation from the Company.

16 17. Defendant Laurel J. Krzeminski ("Krzeminski") served as the Company's Executive
 17 Vice President and Chief Financial Officer ("CFO") between June 2010 and July 2018. Defendant
 18 Krzeminski is named as a defendant in the Securities Class Action. According to the Company's
 19 public filings, defendant Krzeminski received \$1,284,853 in 2018 in compensation from the
 20 Company.

21 18. Defendant Jigisha Desai ("Desai") has served as the Company's Senior Vice
 22 President and CFO since July 2018. Defendant Desai is named as a defendant in the Securities Class
 23 Action. According to the Company's public filings, defendant Desai received \$636,218 in 2018 in
 24 compensation from the Company.

25 19. Defendant Claes G. Bjork ("Bjork") has served as a member of the Company's Board
 26 since 2006. According to the Company's public filings, defendant Bjork received \$337,802 in 2018
 27 in compensation from the Company.

1 20. Defendant Patricia D. Galloway (“Galloway”) has served as a member of the
 2 Company’s Board since 2017. Defendant Galloway also served as a member of the Company’s
 3 Audit/Compliance Committee (the “Audit Committee”) during the Relevant Period. Galloway has
 4 a history of neglecting her duties as a director of publicly traded corporations. Specifically,
 5 Galloway served on the board of directors of SCANA Corporation (“SCANA”), a South Carolina-
 6 based utility, which has been embroiled in litigation arising out of a horribly mismanaged nuclear
 7 project and subsequent merger with Dominion Energy, Inc. Galloway chaired a special litigation
 8 committee that attempted to shut down shareholder litigation against SCANA’s officers and
 9 directors, even after a motion to dismiss had already been denied, but a court rejected Galloway’s
 10 meddling attempts. According to the Company’s public filings, defendant Galloway received
 11 \$215,986 in 2018 in compensation from the Company.

12 21. Defendant Alan P. Krusi (“Krusi”) has served as a member of the Company’s Board
 13 since 2018. According to the Company’s public filings, defendant Krusi received \$165,084 in 2018
 14 in compensation from the Company.

15 22. Defendant J. Lyash (“Lyash”) has served as a member of the Company’s Board since
 16 2018. Defendant Lyash also served as member of the Audit Committee during the Relevant Period.
 17 According to the Company’s public filings, defendant Lyash received \$172,359 in 2018 in
 18 compensation from the Company.

19 23. Defendant Gaddi H. Vasquez (“Vasquez”) has served as a member of the Company’s
 20 Board since 2012. Apart from Granite, Vasquez served for many years as a high-level executive for
 21 Edison International and Southern California Edison, a public utilities company that caused some of
 22 the largest wildfires California has ever seen. Vasquez also divides his time by sitting on numerous
 23 other boards. According to the Company’s public filings, defendant Vasquez received \$223,233 in
 24 2018 in compensation from the Company.

25 24. Defendant David C. Darnell (“Darnell”) has served as a member of the Company’s
 26 Board since 2017. Defendant Darnell also served as a member of the Audit Committee during the
 27

1 Relevant Period. According to the Company’s public filings, defendant Darnell received \$215,986
2 in 2018 in compensation from the Company.

3 25. Defendant Celeste B. Mastin (“Mastin”) has served as a member of the Company’s
4 Board since 2017. According to the Company’s public filings, defendant Mastin received \$216,986
5 in 2018 in compensation from the Company.

6 26. Defendant David H. Kelsey (“Kelsey”) has served as a member of the Company’s
7 Board since 2003. Defendant Kelsey also served as Chair of the Audit Committee during the
8 Relevant Period. According to the Company’s public filings, defendant Kelsey received \$240,111
9 in 2018 in compensation from the Company.

10 27. Defendant James W. Bradford, Jr. (“Bradford”) has served as a member of the
11 Company’s Board since 2006. Defendant Bradford also served as a member of the Audit Committee
12 during the Relevant Period. According to the Company’s public filings, defendant Bradford
13 received \$240,212 in 2018 in compensation from the Company.

14 28. Defendant Molly Campbell (“Campbell”) has served as a member of the Company’s
15 Board since June 2019. Defendant Campbell also served as a member of the Audit Committee
16 during the Relevant Period.

17 29. Defendant Michael F. McNally (“McNally”) has served as a member of the
18 Company’s Board since 2016. According to the Company’s public filings, defendant McNally
19 received \$228,089 in 2018 in compensation from the Company.

20 30. Defendants Roberts, Bjork, Galloway, Krusi, Lyash, Vasquez, Darnell, Mastin,
21 Kelsey, Bradford, Campbell, and McNally are sometimes referred to herein as the “Director
22 Defendants.”

23 31. Defendants Kelsey, Bradford, Darnell, Galloway, Campbell, and Lyash are
24 sometimes referred to herein as the “Audit Committee Defendants.”

25 32. Defendants Roberts, Desai, Krzeminski, Bjork, Galloway, Krusi, Lyash, Vasquez,
26 Darnell, Mastin, Kelsey, Bradford, Campbell, and McNally are sometimes referred to herein as the
27 “Individual Defendants.”

DUTIES OF THE INDIVIDUAL DEFENDANTS

2 33. By reason of their positions as officers and/or directors of the Company and because
3 of their ability to control the business and corporate affairs of the Company, the Individual
4 Defendants owed the Company and its stockholders the fiduciary obligations of good faith, loyalty,
5 and candor and were and are required to use their utmost ability to control and manage the Company
6 in a fair, just, honest, and equitable manner. The Individual Defendants were and are required to act
7 in furtherance of the best interests of the Company and its stockholders so as to benefit all
8 stockholders equally and not in furtherance of their personal interest or benefit. Each director and
9 officer of the Company owes to the Company and its stockholders the fiduciary duty to exercise
10 good faith and diligence in the administration of the affairs of the Company and in the use and
11 preservation of its property and assets, and the highest obligations of fair dealing.

12 34. The Individual Defendants, because of their positions of control and authority as
13 directors and/or officers of the Company, were able to and did, directly and/or indirectly, exercise
14 control over the wrongful acts complained of herein.

15 35. To discharge their duties, the officers and directors of the Company were required to
16 exercise reasonable and prudent supervision over the management, policies, practices, and controls
17 of the Company. By virtue of such duties, the officers and directors of Granite were required to,
18 among other things:

- a. ensure that the Company complied with its legal obligations and requirements, including acting only within the scope of its legal authority and disseminating truthful and accurate statements to the SEC and the investing public;
- b. conduct the affairs of the Company in a lawful, efficient, business-like manner so as to make it possible to provide the highest quality performance of its business, to avoid wasting the Company's assets, and to maximize the value of the Company's stock;
- c. properly and accurately guide investors and analysts as to the true financial condition of the Company at any given time, including making accurate statements about the Company's financial results and prospects, and ensuring that the Company maintained an adequate system of financial controls such that the Company's financial reporting would be true and accurate at all times;

- d. remain informed as to how the Company conducted its operations, and, upon receipt of notice or information of imprudent or unsound conditions or practices, make reasonable inquiry in connection therewith, and take steps to correct such conditions or practices and make such disclosures as necessary to comply with federal and state securities laws; and
- e. ensure that the Company was operated in a diligent, honest, and prudent manner in compliance with all applicable federal, state, and local laws, rules, and regulations.

6 36. Each of the Individual Defendants, as a director and/or officer, owed to the Company
7 and its stockholders the fiduciary duties of loyalty, good faith, and candor in the management and
8 administration of the affairs of the Company, as well as in the use and preservation of its property
9 and assets. The conduct of the Individual Defendants complained of herein involves a knowing and
10 culpable violation of their obligations as directors and officers of the Company, the absence of good
11 faith on their part, and a reckless disregard for their duties to the Company and its stockholders that
12 the Individual Defendants were aware or should have been aware posed a risk of serious injury to
13 the Company.

14 37. The Company has established a Code of Business Conduct (the “Code”), which
15 applies to all employees and directors of the Company. The Code states:

16 Accounting rules are important to any business that must report financial results to
17 those outside the Company, which can include banks, bonding companies, and
18 regulatory agencies. Likewise, investors in publicly traded companies make their
assessments on the assumption that companies follow a uniform set of standards.
Granite follows Generally Accepted Accounting Principles.

* * *

20 All who act for the Company must comply with applicable federal, state, and local laws, rules, and regulations.

* * *

Accounting and Financial Disclosures

- All directors, officers, and employees must act in good faith, responsibly, with due care, competence, and diligence, without misrepresenting material facts or allowing their independent judgment to be subordinated.
- All funds must be properly recorded on Company books and records.

- All information disclosed in our public reports, including those filed with the Securities and Exchange Commission, will be full, fair, accurate, timely, and understandable.
- The Company will comply with the rules and regulations of federal, state, and local governments and other appropriate private and public regulatory agencies.

* * *

Managing Company Records

- Maintaining records is essential to our work, and care must be taken to ensure that records are managed properly. These principles should guide us to:
 - Maintain records specifically required by law. Some laws have specific record-keeping requirements, and we must faithfully maintain all records required by law.
 - Be alert to the need for accuracy—especially when documents are produced for an official purpose. Employees should always try to ensure the accuracy of records, but this becomes especially important when documents are produced for an official purpose, such as litigation or a government inquiry. Providing false or misleading records is wrong under any circumstances— and doing so when records are produced or maintained for official purposes is a serious violation of law.
 - Retain any records related to litigation or an investigation. If there is an investigation or litigation or one is anticipated, it is essential to retain any and all related records.
 - Keep only what is required under our record retention policies. Although accurate records must be maintained, every business needs an orderly process for retaining them. Consult the Records Retention Policy in the Granite Management System to ensure that we do not retain unnecessary documents.

38. The Board also maintains a Board of Directors Corporate Governance Guidelines and Policies, which requires the Director Defendants to “Assist[] management in the oversight of compliance by the Company with applicable laws and regulations, including in connection with the public reporting obligations of the Company.”

39. Furthermore, pursuant to the Board's Audit Committee Charter, the purpose of the Audit Committee (and the Audit Committee Defendants) is to assist the Board in fulfilling its responsibilities for generally overseeing:

- (1) the Company's accounting and financial reporting principles and policies and internal controls and procedures, including the internal audit function,
- (2) the Company's system of Internal Control over financial reporting as required by Section 404 of the Sarbanes-Oxley Act of 2002,

1 (3) the integrity of the Company's financial statements,
2 (4) the qualifications and independence of the Company's independent auditor,
3 (5) the Company's compliance with legal and regulatory requirements, and
4 (6) the Company's Corporate Compliance Program and Code of Conduct.

5 40. The Audit Committee Charter states that the Audit Committee is responsible for
6 oversight over the following functions:

The function of the [Audit] Committee is oversight. The management of the Company is responsible for the preparation, presentation and integrity of the Company's financial statements. Management is responsible for maintaining appropriate accounting and financial reporting principles, policies, internal controls and procedures designed to assure compliance with accounting standards and applicable laws and regulations. The independent auditor is responsible for planning and carrying out a proper audit of the Company's annual financial statements and internal control over financial reporting, reviews of the Company's quarterly financial statements prior to the filing of each quarterly report on Form 10-Q, and other procedures.

41. As described below, the Audit Committee failed to oversee these responsibilities.

CONSPIRACY, AIDING AND ABETTING, AND CONCERTED ACTION

15 42. In committing the wrongful acts alleged herein, the Individual Defendants have
16 pursued, or joined in the pursuit of, a common course of conduct, and have acted in concert with and
17 conspired with one another in furtherance of their wrongdoing. The Individual Defendants caused
18 the Company to conceal the truth and further aided and abetted and assisted each other in breaching
19 their respective duties.

20 43. The purpose and effect of the conspiracy, common enterprise, and common course
21 of conduct was, among other things, to: (i) facilitate and disguise the Individual Defendants'
22 violations of law, including breaches of fiduciary duty and violations of Sections 10(b) and 20(a) of
23 the Exchange Act; (ii) conceal adverse information concerning the Company's operations, financial
24 condition, and future business prospects; (iii) artificially inflate the Company's stock price; and
25 (iv) enhance the Individual Defendants' Company positions and their profits and power stemming
26 from such positions.

1 44. The Individual Defendants accomplished their conspiracy, common enterprise, and
2 common course of conduct by causing the Company to purposefully or recklessly conceal material
3 facts, fail to correct such misrepresentations, and violate applicable laws. The actions described
4 herein occurred under the authority of the Board, thus each of the Individual Defendants who are
5 directors of Granite was a direct, necessary, and substantial participant in the conspiracy, common
6 enterprise, and common course of conduct complained of herein.

7 45. Each of the Individual Defendants aided and abetted and rendered substantial
8 assistance in the wrongs complained of herein. In taking such actions to substantially assist the
9 commission of wrongdoing, each of the Individual Defendants acted with actual or constructive
10 knowledge of the primary wrongdoing, substantially assisted in the accomplishment of that
11 wrongdoing, and was or should have been aware of his or her overall contribution to and furtherance
12 of the wrongdoing.

13 46. At all times relevant hereto, each of the Individual Defendants was the agent of each
14 of the other Individual Defendants and of Granite and was at all times acting within the course and
15 scope of such agency.

SUBSTANTIVE ALLEGATIONS

17 | COMPANY BACKGROUND

18 47. Granite specializes in both public and private sector transportation infrastructure
19 projects that include roads, highways, tunnels, bridges, locks and dams, mass transit facilities, and
20 airports.

21 48. Following the financial crisis that devastated private construction projects, by late 2011
22 the Company, under the leadership of defendant Roberts, began pursuing public fixed-price “mega
23 projects.” To that end, the Company began aggressively bidding on and eventually winning a series
24 of mega projects valued at over \$7.5 billion.

25 49. The Individual Defendants touted the Company's pursuit of public mega projects.
26 For example, in a Form 10-K filed on March 3, 2014, Roberts emphasized the significant
27 "opportunities" presented by "three Large Projects [later four] that helped us reach a record backlog

1 of \$2.5 billion, up 48 percent from \$1.7 billion in 2012.” The \$2.5 billion “backlog” referred to
 2 work that Granite had yet to complete and would be booked as revenue once completed.

3 50. Each of the Projects involved a fixed-price contract between the joint venture partners
 4 and the relevant state transportation authority. In a fixed-price contract arrangement, companies
 5 agree on a set price for the contracted services at the outset of a project. Because the price is fixed
 6 and does not depend on the resources used or time expended, the risk of any cost overruns or delays
 7 compared to the initial cost estimate is borne by the companies. As such, the profitability of a fixed-
 8 price contract depends on the companies’ ability to manage costs and efficiently perform the work.

9 51. Pursuant to the fixed-price nature of the contracts, the Projects required Granite to
 10 perform and satisfy client demands prior to any determination of whether the demands were included
 11 within the scope of work. As defendant Roberts explained on an August 2, 2019 conference call,
 12 Granite is “contractually obligated to continue work on the jobs, and to recognize the associated
 13 costs regardless of whether we agree that the work we have been directed to perform is within the
 14 scope of our contracts.” Further, the fixed-price contract arrangement limited the Company’s ability
 15 to recover cost overruns, shifting cost overrun risks from state public authorities to Granite and its
 16 joint venture partners. Also, because the Projects were integrated joint ventures, the Company’s
 17 financial interest in the Projects was tied to its ownership stake in each Project.

18 52. Due to the fixed-price contract arrangement, Granite assumed significant risk by
 19 pursuing the Projects. Despite these significant levels of risk, Granite and its joint venture partners
 20 submitted extremely aggressive bids, underbidding competitors by \$1 billion for the Tappan Zee
 21 Project and \$860 million on the I-4 Project. These two projects are at the center of the Individual
 22 Defendants’ accounting fraud.

23 53. On April 24, 2014, Granite announced that the Florida Department of Transportation
 24 (“FDOT”) had selected the Company, together with Skanska AB (“Skanska”) and the Lane
 25 Construction Company (“Lane”), to lead the I-4 Project. Granite’s joint venture for the I-4 Project
 26
 27

1 was named “SGL Constructors.”¹ For a price of \$2.3 billion, SGL Constructors agreed to design
 2 and build 21 miles of I-4 interstate highway in Orlando. This included reconstructing 15 major
 3 interchanges, building over 140 bridges, adding four toll lanes, and completely rebuilding the general
 4 use lanes along the entire I-4 corridor. Currently, the project is roughly 70% complete. Granite has
 5 a 30% equity interest in the I-4 Project.

6 54. On December 17, 2012, Granite announced that the New York State Thruway
 7 Authority (“NYSTA”) had awarded a \$3.14 billion design-build² contract for the Tappan Zee Project
 8 to Tappan Zee Constructors (“TZC”). The members of the TZC joint venture are Granite, Fluor
 9 Corporation, American Bridge Company, and Traylor Bros., Inc. The Tappan Zee Project would
 10 replace the 3.1-mile-long Tappan Zee Bridge, which connects Rockland and Westchester Counties
 11 in New York, and was expected to be completed in 2017. While the new bridge has opened, work
 12 continues to this day. Granite has a 23.3% equity interest in the Tappan Zee Project.

13 55. On October 27, 2014, Granite announced that PennDOT had selected Granite’s joint
 14 venture team for the Rapid Bridge Project for a total price of \$1.1 billion. The members of the joint
 15 venture, named “Plenary Walsh Keystone Partners,” are Granite, HDR Engineering, The Plenary
 16 Group, and The Walsh Group (“Walsh”). Granite and Walsh serve as the design-build contractor on
 17 the project (“Granite/Walsh JV”). Under the terms of the contract, Granite and Walsh were
 18 responsible for replacing 558 structurally deficient bridges across Pennsylvania. Granite has a 40%
 19 interest in the Rapid Bridge Project.

20 56. On December 13, 2012, Granite announced that the Texas Department of
 21 Transportation had selected the joint venture formed by Granite, Archer Western Contractors, and
 22

23 ¹ SGL Constructors, which is charged with building the I-4 Project, is part of a broader team on the
 24 I-4 Project named I-4 Mobility Partners. Through the I-4 Project in Florida, SGL Constructors was
 25 to design and build 21 miles of I-4 highway. I-4 Mobility Partners is the concessionaire for the
 26 project and responsible for designing, financing, maintaining, and operating the I-4 Project. I-4
 27 Mobility Partners is jointly owned by Skanska and John Laing.

28 ² Design-build is a project delivery method in which the design and construction services are
 29 contracted by a single entity.

1 Lane, named “AGL Constructors,” to rebuild 28.2 miles of highway in Texas at a price of \$1.2
 2 billion. Granite has a 35% interest in the IH 35 Project.

3 **THE INDIVIDUAL DEFENDANTS’ ACCOUNTING FRAUD TO INFLATE THE COMPANY’S REVENUE
 4 AND PROFIT FIGURES**

5 57. During the Relevant Period, the Individual Defendants claimed to recognize revenue
 6 from each of the Projects under an accounting method known as “percentage of completion.” Under
 7 the GAAP percentage of completion method, revenue is reached by dividing actual costs by the total
 8 estimated costs, then applying that percentage to the total transaction price.

9 58. The Individual Defendants manipulated both the Projects’ transaction prices and
 10 percentages of completion, which in turn overstated Granite’s revenue and profit figures during the
 Relevant Period.

11 59. For each of the Projects, one of the joint venture partners would be designated as a
 12 sponsor, who would provide all administrative and accounting support for the project. Granite did
 13 not serve as a sponsor for any of the Projects, so Granite received detailed financial statements
 14 directly from the sponsoring partners from each of the Projects.

15 60. The financial statements were prepared in accordance with governing accounting
 16 standards and were audited. Receiving the financial statements from one sponsor ensured that all
 17 participants in each joint venture, including Granite, received consistent information about the
 18 project’s progress towards completion so that each partner could appropriately account for the
 19 project’s revenues, costs, and profits.

20 61. The Projects were highly material to Granite’s financial statements. Granite’s
 21 financial statements disclosed the aggregate financial results of the Projects as “unconsolidated joint
 22 ventures.” Such large projects with unconsolidated joint ventures had contracts with a combined
 23 value of \$11.5 billion, of which Granite’s share was \$3.3 billion (as of September 30, 2019), and
 24 contributed up to 17.5% of Granite’s overall trailing twelve months (“TTM”) revenue during the
 Relevant Period. Specifically, the Projects comprised the overwhelming majority of Granite’s

1 unconsolidated joint ventures, with a total contract value of \$7.5 billion, of which Granite's share
 2 was \$2.3 billion.

3 62. From early on, the Projects incurred cost overruns and delays. More importantly, the
 4 Individual Defendants did not disclose the effect of the cost overruns on Granite's financial
 5 statements. Thus, the specific accounting determination as to costs and revenue for each Project was
 6 concealed from investors. For example, by March 2018, news outlets reported that Granite and TZC
 7 were contemplating bringing a \$900 million claim against the NYSTA relating to cost overruns and
 8 scheduling delays. However, the NYSTA specifically denied that any valid claim existed and
 9 emphasized that all invoices from TZC to date had been fully paid. The disclosure of a potential
 10 claim of approximately \$900 million by the joint venture in no way revealed Granite's accounting
 11 treatment with respect to the claim, or the revenues and costs Granite booked for the Tappan Zee
 12 Project. Investors and the public had no way of knowing that Granite had not properly incorporated
 13 the cost overruns and \$900 million claim into the Company's accounting.

14 63. To hide the impact of the cost overruns of the Projects, the Company sought to enter
 15 into a merger transaction. On February 14, 2018, the Individual Defendants caused the Company to
 16 announce the acquisition of Layne Christensen Company ("Layne"), a water management,
 17 construction, and drilling company, in a \$565 million stock-for-stock merger transaction. The Layne
 18 acquisition involved granting Layne shareholders \$376 million in Granite stock and Granite assumed
 19 \$189 million in Layne debt. As a result of the Layne acquisition, Granite expanded into water and
 20 wastewater infrastructure. After the acquisition, Layne represented 14% of the Company's pro
 21 forma revenues—compared to 30% from Large Project Construction, down from 35% prior to the
 22 acquisition—diluting the Company's revenue concentration in the Projects.

23 64. Following the announcement of the Layne acquisition, the Individual Defendants
 24 falsely claimed that the financial results of the Projects were improving. In announcing the
 25 Company's financial and operational results for the first quarter of 2018, on April 30, 2018, the
 26 Individual Defendants represented that Large Project Construction revenue increased 20% over the
 27

1 prior year, gross profit increased by approximately 800%, and the profit margin increased to 8.2%
 2 from 1.2% the prior year.

3 65. In a conference call held with investors and analysts on April 30, 2018, defendant
 4 Roberts attributed the positive financial results to the fact that “work on underperforming, mature
 5 projects [*i.e.*, the Projects] had less impact” on the Company’s business and that a “strong ramp-up
 6 of activity at newer projects . . . mitigat[ed] some of the continued negative impact from challenging
 7 projects.” In the same call, defendant Krzeminski, in support of Roberts’ statement, stated that the
 8 improvement in Granite’s Large Project Construction segment was the result of “a reduced pace of
 9 mature underperforming projects, which lessened their drag on quarterly results.” Krzeminski also
 10 emphasized the Company’s “consistent cost control” as a source of its financial improvement.

11 66. The Individual Defendants continued to assure the public that the Company did not
 12 need to take a charge on the Projects despite incurring significant losses. For example, on May 1,
 13 2018, the Individual Defendants caused the Company to file a Form 10-Q with the SEC that stated
 14 that the Company realized net income from the unconsolidated joint ventures of \$2.6 million for the
 15 three months ended March 31, 2018, even though the joint ventures for the Projects incurred a net
 16 loss of \$141 million during that period. The Individual Defendants stated that this was due to
 17 “differences between our estimated total revenue and cost of revenue when compared to that of our
 18 partners,” without providing sufficient explanation. The Individual Defendants further assured
 19 investors in the same 10-Q that the Projects’ costs underlying the reported financial results were
 20 “materially reliable” and stemmed from a detailed “bottom up” approach imbued with the
 21 Company’s experience.

22 67. Analysts and investors responded positively to the Individual Defendants’
 23 representations. For example, an analyst with Canaccord Genuity stated in a report on April 30,
 24 2018 that Granite’s “core business continues to improve,” as is “the qualitative outlook [] for large
 25 projects.” Canaccord Genuity specifically noted that “challenged large projects were a significant
 26 drag to 2017 results” and that it was encouraged by Granite’s “significant improvements in Large
 27 Project segment margins,” as well as “the benefit from the completion of challenged large projects

1 in the first half" of 2018. Other analysts, including Macquarie Research and Cowen, published
 2 similar outlooks in their reports.

3 68. Despite the Individual Defendants' assurances, in reality, the Company's financial
 4 statements were not accurate and failed to properly account for massive cost overruns in violation
 5 of GAAP. By April 30, 2018, the I-4 Project, Tappan Zee Project, Rapid Bridge Project, and IH 35
 6 Project had experienced cost overruns of \$100 million, \$900 million, \$340 million, and \$25 million,
 7 respectively.

8 69. On June 28, 2018, Moody's reported that I-4 Mobility had filed a claim on June 11,
 9 2018 with the FDOT for \$100 million in additional compensation to attempt to recoup cost overruns
 10 arising from a 245-day time delay. The Moody's report was the first public indication of this claim,
 11 which Granite has never publicly disclosed. Despite the public report, investors had no way of
 12 knowing how this claim was reflected in Granite's financial statements, or whether Granite had
 13 included those cost overruns or disputed costs in its calculation of revenue and percentage of
 14 completion of the I-4 Project.

15 70. On June 11, 2018, I-4 Mobility sent a letter to the FDOT asserting that the FDOT
 16 owed "\$100,393,430 in additional compensation and a 245 Day Time Extension related to impacts
 17 arising from the drilled shaft failure and second drilled shaft failure in Area 2." The letter explained
 18 that the "drilled shaft failures and the impacts of those failures are more fully detailed in the enclosed
 19 submission from the design-build contractor, SGL Constructors," and that the overall claim for \$100
 20 million and a 245-day extension included "requests for relief for Concessionaire-Related Entities
 21 SGL Constructors, as the Design-Build Contractor."

22 71. The June 11, 2018 letter had questionable explanations. The letter attributed the
 23 eight-month delay and \$100 million in additional costs to discrete drilling issues despite having
 24 reported that, in September 2017, "[d]elays associated with the drilled shaft failures were
 25 substantially mitigated by a redesign." Thus, the Individual Defendants knew that the Company
 26 would have a very low likelihood of receiving the \$100 million requested for cost overruns.

27

1 72. Indeed, on October 18, 2018, Skanska, the majority partner on the I-4 Project,
 2 announced that it would take a \$100 million charge on two public-private partnerships in the U.S.
 3 due to lower production rates and delays. While Skanska did not publicly reference the I-4 Project,
 4 its only two substantial public-private partnership projects in the U.S. are the I-4 Project and some
 5 work at New York's LaGuardia Airport. Skanska simultaneously announced that the head of its
 6 civil engineering business in the U.S. would step down immediately and that the company would no
 7 longer bid on large public-private partnership projects in the U.S.

8 73. Despite the fact that Skanska, Granite's majority partner for the I-4 Project, booked
 9 its charge relating to the I-4 Project, Granite did not recognize a charge. On October 29, 2018,
 10 eleven days after Skanska booked its charge, the Individual Defendants caused the Company to file
 11 a Form 10-Q with the SEC stating that Granite did not need to recognize a charge. The Individual
 12 Defendants insisted that the Company was different from its joint venture partners by announcing
 13 that Granite recognized \$3.1 million and \$16.5 million in net losses during the three and nine months
 14 ended September 30, 2018. In contrast, the joint venture recognized \$47.6 million and \$162 million
 15 in net losses during the three and nine months ended September 30, 2018. Further, the Individual
 16 Defendants stated that, as of September 30, 2018, there were only four projects for which additional
 17 costs were reasonably possible, and that the aggregate range of additional costs was "zero to \$45.0
 18 million."

19 74. Granite also incurred cost overruns on the Tappan Zee Project. Indeed, TZC, the
 20 joint venture which Granite was a member of, submitted a Freedom of Information Law request to
 21 NYSTA seeking documents regarding disputed costs, including documents regarding "NYSTA's
 22 Project 'Oversight' role"; "[d]iffering site conditions encountered by TZC"; "[p]ile inspection,
 23 testing and welding criteria directed by NYSTA"; "[n]oise shrouds and bubble curtains required by
 24 NYSTA"; a "marine incident" on March 12, 2016; a "crane incident" on July 19, 2016; several
 25 weather events in January, October, and November 2014; the overall "impact of weather on the
 26 project schedule" from 2014 to 2018; and "[c]hanges with respect to demolition of the existing
 27 Tappan Zee Bridge." More importantly, the information request sought information regarding

1 TZC’s “Dispute Submission with Demand for Payment dated March 15, 2018,” which confirms that
 2 the project had cost overruns. The Individual Defendants did not specifically disclose these cost
 3 overruns. In March 2018, TZC filed a \$900 million claim on the Tappan Zee Project to recover for
 4 cost overruns.

5 75. The Rapid Bridge Project, likewise, experienced significant cost overruns. The
 6 Granite/Walsh JV responsible for this Project internally admitted in an October 26, 2016
 7 memorandum from Arik Quam (“Quam”), the Business Group Leader, that it “did not do enough to
 8 price each bridge sites [sic] unique characteristics that would add costs to each bridge site—we
 9 would not have been the selected bidder had we done this correctly.” The Granite/Walsh JV “[took]
 10 for granted that these little bridges would not have issues and would get done on time.” And it
 11 “[a]ccepted the risk of unforeseen conditions – Differing Site Conditions.”

12 76. Quam further explained that: (i) the “plans and forms and processes were not fully
 13 vetted” and the “Project Schedule is too complex and aggressive”; (ii) the Granite/Walsh JV “[d]id
 14 not adjust to realistic durations until later in the project which affected prioritization on the
 15 downstream activities”; (iii) according to PennDOT, the contract allowed “no change orders”
 16 because it was “a lump sum contract with NO change orders”; (iv) a Pennsylvania official, “Deputy
 17 Sec Ritzman[,] had told [the Granite/Walsh JV] that during the budgeting process [Ritzman] was
 18 told not to budget anything for change orders”; and (v) the Granite/Walsh JV had experienced
 19 “significant increases in construction costs, design cost,” and “schedule duration” arising from
 20 project modifications.

21 77. Adding to cost overruns, the Rapid Bridge Project had liquidated damage provisions
 22 that would be triggered by delays. By August 2016, the Granite/Walsh JV knew that it faced
 23 potential damages of \$45 million that it would seek to pass along to the project’s architect, HDR, by
 24 withholding further payments to HDR. On August 31, 2016, it sent HDR—copying Granite
 25 executives Mike Donnino and Bob McTavish—a formal “Notice of Payment Withholding,”
 26 asserting that the Granite/Walsh JV “has suffered substantial damages estimated in the amount of
 27 \$45M as a result of design related schedule delays and design quantity growth.”

1 78. In April 2017, the Granite/Walsh JV reached a settlement with PennDOT in which
 2 the Granite/Walsh JV recovered less than 23% of its \$340 million in purported claims associated
 3 with overruns and schedule delays on the Rapid Bridge Project.

4 79. Beginning with the fourth quarter of 2018, the quarter after Skanska recognized a
 5 \$100 million charge, the Individual Defendants caused the company to remove “reasonably
 6 possible” additional costs in violation of GAAP.

7 80. On a Form 10-Q filed with the SEC on May 1, 2018, the Company reported: “As of
 8 March 31, 2018, there were four projects for which additional costs were reasonably possible in
 9 excess of the probable amounts included in the cost forecast. The reasonably possible aggregate
 10 range that has the potential to adversely impact gross profit during the year ended December 31,
 11 2018 was zero to \$47.0 million.”

12 81. On a Form 10-Q filed with the SEC on August 8, 2018, the Company reported: “As
 13 of March 31, 2018, there were four projects for which additional costs were reasonably possible in
 14 excess of the probable amounts included in the cost forecast. The reasonably possible aggregate
 15 range that has the potential to adversely impact gross profit during the year ended December 31,
 16 2018 was zero to \$15.0 million.”

17 82. On a Form 10-Q filed on October 29, 2018, the Company reported: “As of March
 18 31, 2018, there were four projects for which additional costs were reasonably possible in excess of
 19 the probable amounts included in the cost forecast. The reasonably possible aggregate range that
 20 has the potential to adversely impact gross profit during the year ended December 31, 2018 was zero
 21 to \$45.0 million.”

22 83. However, the quarters after Skanska recognized a \$100 million charge, in a Form 10-
 23 K dated February 16, 2019 and Forms 10-Q dated April 26, 2019 and August 6, 2019, the Individual
 24 Defendants caused the company to omit any “reasonably possible aggregate range” of additional
 25 costs, misleading investors that no charges were being considered. This factually unwarranted
 26 removal of any “reasonably possible aggregate range” violates GAAP.

27

28

1 84. Instead, on the Form 10-Q filed with the SEC on August 6, 2019, the Company took
 2 a charge of \$143.7 million pre-tax that began to reveal the truth regarding the Individual Defendants'
 3 accounting fraud. The \$143.7 charge was a result of a \$161.1 million reduction in gross profit for
 4 five projects, with the Projects accounting for \$153.6 million. This amount far exceeded any of
 5 Granite's publicly disclosed "reasonably possible" costs or charges in prior quarters and nearly
 6 doubled Granite's charges in the entirety of 2018. The Company's next Form 10-Q filed with the
 7 SEC on October 25, 2019, revealed that the Company took another charge of \$80.7 million resulting
 8 from increased costs and decreased gross profits for six projects.

9 85. As a member of joint ventures, the Company reported its financial statements on an
 10 unconsolidated basis. Typically, each design-build joint venture prepares its own financial
 11 statements, which are often audited by an outside firm. For example, the PennDOT Agreement
 12 expressly required the relevant joint venture to provide financial statements prepared "using GAAP
 13 or equivalent accounting principles . . . and audited by an independent certified public accountant."

14 86. The Company, as a member of integrated joint ventures, was provided with the
 15 financial statements of the joint ventures. The Company was also provided with the joint monthly
 16 profit and loss statements. Since Granite's financial interest in each of the Projects reflected its
 17 ownership stake in the entire associated project, GAAP required Granite to maintain consistent pro
 18 rata shares of the joint ventures' revenues, cost of revenue, and net income.

19 87. Instead, Granite's accounting for its interests in the Projects deviated substantially
 20 from other joint venture partners and the joint ventures themselves. Granite never explained the
 21 bases for any deviations other than to state that they existed. During the Relevant Period, there was
 22 a significant discrepancy between the joint ventures' revenues, cost of revenue, and net income/net
 23 loss and Granite's purported pro rata share of those metrics. This deviation in financial metrics
 24 underscores Granite's violations of GAAP.

25 88. Specifically, Granite historically claimed about 30% of the joint ventures' revenue,
 26 which was generally in excess of \$430 million per quarter from 2015 through 2017. This changed
 27 when the joint ventures' revenue dropped to \$239 million in the first quarter of 2018. Suddenly, the
 28

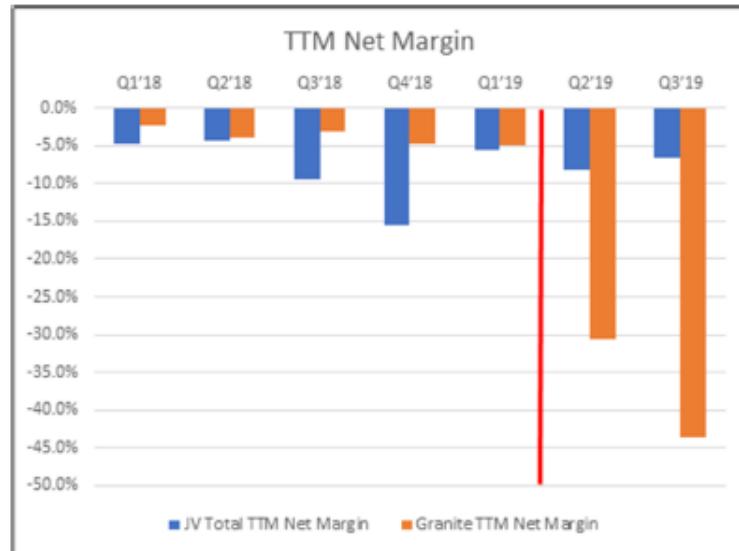
1 Company claimed 49% of that revenue, as compared to 30% historically. Further, despite claiming
 2 49% of the revenue, the cost of revenue percentage remained around 30%. This disparity resulted
 3 in the joint ventures sustaining a \$141 million loss in the first quarter of 2018, while Granite recorded
 4 a \$2.6 million gain.

5 89. Throughout the Relevant Period, the Individual Defendants continued to cause the
 6 Company to claim disproportionate shares of the joint ventures' income. For 2018 as a whole, while
 7 the joint ventures recognized a total net loss of \$240.3 million, the Company posted only a \$22.6
 8 million net loss. Since the overall share of Granite in the joint ventures remained the same, the
 9 disparity has no viable explanation other than accounting fraud. This accounting fraud was revealed
 10 in the second and third quarters of 2019, when the Company reported significant losses.

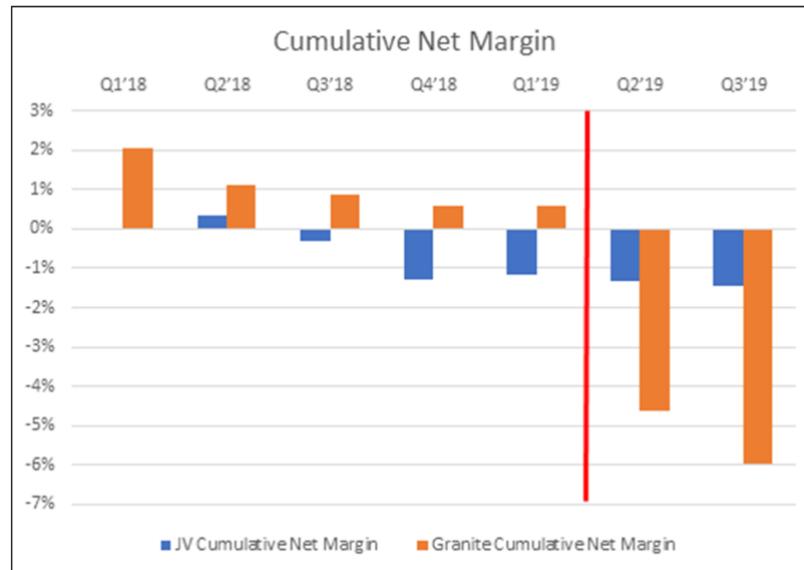
11 90. One metric, net margin, displays the pattern clearly. Net Margin reflects net income
 12 divided by total revenue, which depicts the percentage of profit or loss that the Company recognized
 13 on the Projects. The metric also demonstrates the Company's "catch up" charges that the Company
 14 needed to take in the second and third quarters of 2019 and that the Individual Defendants caused
 15 the Company to inappropriately report net margin from the joint ventures from the first quarter of
 16 2018 through the first quarter of 2019.

	1Q18	2Q18	3Q18	4Q18	1Q19	2Q19	3Q19
JV Net Margin	(4.7%)	(4.4%)	(9.4%)	(15.6%)	(5.5%)	(8.2%)	(6.6%)
Granite Net Margin From JVs	(2.3%)	(3.9%)	(3.2%)	(4.7%)	(4.9%)	(30.6%)	(43.6%)

21 91. The following chart shows that in the second quarter of 2019, Granite's TTM net
 22 margin for the joint ventures plummeted.



92. Further, the chart below shows the longer-term trend of Granite's overstated cumulative margins relative to the joint ventures.



93. The above facts illustrate that the Individual Defendants caused the Company to materially overstate revenues and profits during the Relevant Period, only to catch up on massive charges. Further, during the Relevant Period, the Individual Defendants only made limited

1 disclosures about the joint ventures' financials, hiding the Company's overstatement of revenues
 2 and profits relative to its joint venture partners.

3 94. Indeed, when CFRA Research first raised the disturbing discrepancy in Granite's
 4 joint venture accounting in July 2019, the Individual Defendants responded that, "This represents
 5 differences between Granite's estimate to complete vs. our partners on a particular project which
 6 occurs quite often in practice, and it could just be timing. As an old accounting professor told me,
 7 'the books of the world do not balance.'"

8 95. However, a few weeks later during an August 2, 2019 conference call held with
 9 investors and analysts, defendant Roberts admitted that the issues that led to the \$161.1 million
 10 charge were "apparent to [Granite]" by "the end of June [2019.]" Effectively, the Individual
 11 Defendants conceded that they knew that the Company was on the verge of taking massive charges
 12 when they dismissed CFRA's concerns regarding the accounting discrepancy.

13 **THE INDIVIDUAL DEFENDANTS' ACCOUNTING MANIPULATION VIOLATED GAAP**

14 96. The Individual Defendants accounting scheme violated GAAP in two ways:
 15 (1) prematurely including revenue from disputed claims against customers where recovery was not
 16 probable or where it was likely that a significant revenue reversal would occur; and (2) inflating the
 17 Projects' percentage of completion by ignoring the Projects' cost overruns.

18 97. These improper accounting tactics resulted in Granite improperly failing to book its
 19 portion of charges arising from over \$1.3 billion in joint venture-level project costs and claims
 20 comprised of: (i) \$900 million in connection with the Tappan Zee Project; (ii) at least \$100 million
 21 in connection with the I-4 Project; (iii) \$263 million in connection with the Rapid Bridge Project;
 22 and (iv) \$25 million in connection with the IH 35 Project. Based on the Company's equity interest
 23 in the joint ventures, the cost overruns exceeded \$338 million as indicated below.

24
 25
 26
 27

Project	JV Cost Overruns/Claims	Granite JV Interest	Granite Share
Tappan Zee	\$900 million	23.3%	\$209.7 million
I-4 Ultimate	\$100 million (\$48.1 million on behalf of SGL Constructors)	30%	\$14.4 million
PennDOT	\$340 million ⁶	40%	\$105.6 million
Texas	<u>\$25 million</u>	35%	<u>\$8.75 million</u>
Total	>\$1.3 billion	N/A	\$338.5 million

98. Accounting Standards Codification (“ASC”) Topic 606 (“ASC 606”) governed the Company’s revenue recognition during the Relevant Period. Under ASC 606, the Company’s revenue recognition was supposed to be:

$$\text{Revenue} = \text{Transaction price} \times \frac{\text{Actual costs incurred}}{\text{Total estimated costs}}$$

99. ASC 606 defines “transaction price” as “the amount of consideration in a contract to which an entity expects to be entitled in exchange for transferring promised goods or services to a customer.” Since the Projects were based on a fixed-fee arrangement, the only way the joint ventures, and, in turn, the Company, could collect unanticipated costs are through a “change order” or a “claim,” as defined in ASC 606-10-25-10. However, state government entities were not required to pay additional costs on the sole basis of a “change order,” which left the joint ventures and the Company with a significant risk of bearing unanticipated costs. Further, the terms of the Projects required the joint ventures and the Company to “continue work on the jobs, and to recognize the associated costs regardless of whether we agree that the work we have been directed to perform is within the scope of our contracts.”

1 100. The American Institute of CPAs Audit and Accounting Guide for Construction
 2 Contractors provides industry-specific GAAP guidance and specifies that the transaction price “must
 3 be revised each period throughout the life of the contract when events occur and as uncertainties are
 4 resolved. The major factors that must be considered in determining total estimated revenue include
 5 (a) the basic contract price, (b) contract options, (c) change orders, (d) claims, and (e) contract
 6 provisions for penalty and incentive payments, including award fees and performance incentives.”

7 101. Additionally, under ASC 606-10-32-11, companies are permitted to include
 8 unapproved claims or change orders in the transaction price “only to the extent that it is probable
 9 that a significant reversal in the amount of cumulative revenue recognized will not occur when the
 10 uncertainty associated with the variable consideration is subsequently resolved.” In assessing the
 11 probability of a significant reversal, under ASC 606-10-32-12, “an entity shall consider both the
 12 likelihood and the magnitude of the revenue reversal.” The factors include:

- 13 (a) The amount of consideration is highly susceptible to factors outside the entity’s
 14 influence. Those factors may include volatility in a market, the judgment or actions
 15 of third parties, weather conditions, and a high risk of obsolescence of the promised
 16 good or service.
- 17 (b) The uncertainty about the amount of consideration is not expected to be resolved
 18 for a long period of time.
- 19 (c) The entity’s experience (or other evidence) with similar types of contracts is
 20 limited, or that experience (or other evidence) has limited predictive value. . . .

21 ASC 606-10-32-12.

22 102. The Individual Defendants represented to investors that these standards were being
 23 followed. For example, in a Form 10-Q filed with the SEC on May 1, 2018, the Company stated:

24 Changes are made to the transaction price from unapproved change orders to the
 25 extent the amount can be reliably estimated and recovery is probable.

26 On certain projects we have submitted and have pending unresolved contract
 27 modifications and affirmative claims (“affirmative claims”) to recover additional
 28 costs and the associated profit, if applicable, to which the Company believes it is
 entitled under the terms of contracts with customers, subcontractors, vendors or
 others. The owners or their authorized representatives and/or other third parties
 may be in partial or full agreement with the modifications or affirmative claims, or
 may have rejected or disagree entirely or partially as to such entitlement.

1 Changes are made to the transaction price from affirmative claims with customers
 2 to the extent it is probable that a claim settlement with a customer will result in
 3 additional revenue and the amount can be reasonably estimated. A reduction to
 4 costs related to affirmative claims with non-customers with whom we have a
 5 contractual arrangement (“back charges”) is recognized when the estimated
 6 recovery is probable and the amount can be reasonably estimated. Except for
 7 contractual back charges, a reduction to cost related to affirmative claims against
 8 non-customers that are unrelated to jobs is recognized when the claims are settled.
 9 Recognizing affirmative claims and back charge recoveries requires significant
 10 judgments of certain factors including, but not limited to, dispute resolution
 11 developments and outcomes, anticipated negotiation results, and the cost of
 12 resolving such matters and estimates.

13 103. The Individual Defendants caused Granite to violate these GAAP standards by
 14 improperly including substantial consideration from claims and disputed work in its calculation of
 15 the I-4 and Tappan Zee Projects’ transaction prices, while knowing that such amounts could not be
 16 “reliably” (or “reasonably”) estimated and knowing that recovery was not “probable.” These
 17 violations allowed the Individual Defendants to inflate Granite’s transaction price for these Projects
 18 and prematurely recognize material amounts of revenue and profit.

19 104. As to the I-4 Project, the Individual Defendants knew that receiving the \$48.1 million
 20 claim from the FDOT was not probable because there was no contractual basis to allocate the risk
 21 of subsurface geotechnical issues to the FDOT. Under the governing agreement, I-4 Mobility agreed
 22 that it would “not be entitled to any monetary compensation or time extension for any Delays or
 23 Delay impacts except with respect to Relief Event Delays.” The contract separately provided an
 24 exclusive list of “Relief Events” that could give rise to compensable “Relief Event Delays,” which
 25 only included events like “FDOT-Caused Delays,” “Release of Contaminated Materials by FDOT,”
 26 and “Change in Law,” excluding the discovery of pre-existing geotechnical issues as a viable claim.
 27 Thus, the Individual Defendants had no basis for treating any recovery for costs as “probable,” let
 28 alone “reliably” or “reasonably” estimate that recovery.

105. As to the Tappan Zee Project, the Individual Defendants also knew that receiving
 \$900 million from the NYSTA was not probable. TZC’s agreement for the Tappan Zee Project
 severely limited TZC’s ability to recover any cost overruns. Pursuant to the agreement, TZC agreed
 that “no time extension will be allowed” for delays resulting from TZC’s “inefficient operation,”

1 and further agreed “to make no monetary request for . . . any extra/additional costs, any delays,
 2 inefficiencies or interferences in the performance of the [Tappan Zee Project] caused by or
 3 attributable to” TZC’s own inefficiencies.

4 106. The Tappan Zee Project agreement also categorically excluded “non-compensable
 5 delays” for which TZC “agree[d] to make no monetary claim for . . . any extra/additional costs
 6 attributable” to those events, including delays associated with “work or the presence on the Project
 7 Site of any third party, including that of other contractors or personnel employed by the Authority,”
 8 supply shortages, weather events, or any work rejected by the NYSTA as non-conforming with the
 9 agreed-upon specifications. The agreement also forced TZC to “not maintain a Dispute for costs
 10 associated with the acceleration” of work to maintain the project’s schedule absent narrow
 11 circumstances.

12 107. In addition to the severely limited scenarios for cost recovery, the bases for the
 13 dispute were also not reasonable because they were stemming from adverse weather, when it was
 14 expressly agreed that costs related to the presence of NYSTA personnel at the project site and those
 15 stemming from adverse weather were unrecoverable by TZC. TZC had issues with NYSTA’s
 16 direction to accelerate the Tappan Zee Project, but TZC had not met the restrictive contractual
 17 requirements to obtain extra compensation for any accelerated work, and any purported
 18 “acceleration” was simply to maintain the Tappan Zee Project’s existing schedule. Accordingly, the
 19 Individual Defendants knew that any recovery of the \$900 million in claims TZC submitted to the
 20 NYSTA could not reasonably or reliably be estimated or deemed probable because the likelihood of
 21 recovery was practically zero percent.

22 108. Independently, the disputed matters met several of the risk factors under ASC 606-
 23 10-32-12 for significant revenue reversal: the amount of any consideration Granite hoped to receive
 24 was highly susceptible to the actions of third parties and other matters outside Granite’s influence;
 25 the uncertainty was not expected to be resolved for a long period given the exhaustive dispute
 26 resolution procedures set forth in the contracts; and Granite had only limited experience, with limited
 27 predictive value, on similar contracts.

1 109. Thus, The Individual Defendants' inclusion of substantial consideration in the
2 transaction price for the I-4 and the Tappan Zee Projects violated: (i) ASC 606-10-32-14 for failing
3 to "update the estimated transaction price . . . to represent faithfully the circumstances present at the
4 end of the reporting period and the changes in circumstances during the reporting period;" (ii) ASC
5 606-10-32-11 for having no basis to claim it was "probable that a significant reversal in the amount
6 of cumulative revenue recognized will not occur when the uncertainty associated with the variable
7 consideration" was resolved; and (iii) ASC 606-10-32-12 for failing to adequately to recognize "both
8 the likelihood and the magnitude of the revenue reversal."

9 110. The Individual Defendants also manipulated Granite's financials by improperly
10 inflating the percent complete, which is calculated by dividing actual costs incurred by total
11 estimated costs. Using Granite's method of accounting, revenue for each period was determined by
12 multiplying the transaction price for a given project by Granite's then-current percent of the project
13 that was complete: (a) actual costs incurred divided by (b) total estimated costs.

14 111. As defendant Desai explained during an August 2, 2019 conference call held with
15 investors and analysts, the “percentage of completion method calculates project revenue as a
16 percentage of actual costs incurred divided by total estimated cost forecast on the job. This
17 percentage is then applied to total estimated revenue for the job to determine revenue for the period.”

18 112. With respect to the actual costs incurred, the Individual Defendants caused the
19 Company to state in a Form 10-Q filed with the SEC on May 1, 2018 that: “All contract costs,
20 including those associated with affirmative claims, change orders and back charges, are recorded as
21 incurred.” As to the total estimated costs, the Company stated in the same Form 10-Q that: “The
22 accuracy of our revenue and profit recognition in a given period depends on the accuracy of our
23 estimates of the cost to complete each project. Cost estimates for all of our significant projects use
24 a detailed ‘bottom up’ approach, and we believe our experience allows us to create materially reliable
25 estimates.” In the same 10-Q, the Individual Defendants also caused the Company to state that
26 “revisions to estimated total costs are reflected as soon as the obligation to perform is determined to
27 be probable.”

1 113. The determination of actual and estimated costs is subject to important constraints
 2 under ASC 606-10-25-35, which requires a company to “update its measure of progress to reflect
 3 any changes in the outcome of the performance obligation” as “circumstances change over time.”
 4 Additionally, ASC 606-10-25-36 requires entities to “recognize revenue for a performance
 5 obligation satisfied over time only if the entity can reasonably measure its progress toward complete
 6 satisfaction of the performance obligation. An entity would not be able to [do so] if it lacks reliable
 7 information that would be required to apply an appropriate method of measuring progress.”

8 114. Nevertheless, in violation of GAAP, the Individual Defendants ignored the Projects’
 9 known costs and excluded them from total estimated costs, which resulted in the Company’s
 10 premature recognition of revenue by overstating the percentage of the Projects that were complete.

11 115. Thus, the Individual Defendants caused the Company to violate ASC 606-10-25-35
 12 for failing to properly “update its measure of progress to reflect any changes in the outcome of the
 13 performance obligation” and ASC 606-10-25-36 for failing to “reasonably measure” progress
 14 toward completion based on “reliable information.”

15 116. Further, as discussed in ¶¶ 79-84, the Individual Defendants removed the disclosure
 16 of a range of additional costs that were reasonably possible beginning in the fourth quarter of 2018
 17 despite knowing the cost overruns. This removal of the disclosure was also in violation of GAAP
 18 because ASC 450-20-50 requires disclosure of reasonably possible losses, including an “estimate of
 19 the possible loss or range of loss.” Further, the SEC has said that: “Vague or overly broad disclosures
 20 that speak merely to litigation, tax, or other risks in general, without providing any information about
 21 the specific loss contingencies being evaluated are not sufficient.”

22 117. As discussed above, the Individual Defendants knew that the Projects had cost
 23 overruns totaling more than \$338 million. These known facts established both the existence and
 24 amount of Granite’s reasonably possible additional costs, and ASC 450 required Granite to disclose
 25 them. No subjective judgment was required for Granite to disclose that it faced \$338.5 million in
 26 additional costs in connection with the various claims the joint ventures had already threatened or
 27 asserted. Nonetheless, after disclosing up to \$45.0 million in reasonably possible additional costs in

1 the third quarter of 2018, Granite simply removed any disclosure in the fourth quarter of 2018, first
 2 quarter of 2019, and second quarter of 2019. Thus, the Individual Defendants' concealment of
 3 reasonably possible additional costs was in violation of ASC 450-20-50.

4 **THE INDIVIDUAL DEFENDANTS CAUSE THE COMPANY TO ISSUE MATERIALLY FALSE AND
 5 MISLEADING STATEMENTS DURING THE RELEVANT PERIOD**

6 118. Throughout the Relevant Period, the Individual Defendants made materially false
 7 and/or misleading statements, as well as failed to disclose material adverse facts about the
 8 Company's business, operations, and prospects. Specifically, the Individual Defendants' statements
 9 and omissions were materially false and misleading because the Company violated GAAP in failing
 10 to properly account for the Projects' substantial cost overruns, including: (1) \$1.3 billion cost
 11 overruns for the Projects; (2) the Company's share of the cost overruns was at least \$338.5 million;
 12 (3) the cost overruns were known to the Individual Defendants at the time they made the statements
 13 or omission; and (4) the recovery for claims associated with cost overruns was not probable, and
 14 recognizing revenue for such claims was likely to result in a significant revenue reversal.

15 **A. Materially False Statements Surrounding the Company's Financial and Operational
 16 Results for the First Quarter of 2018**

17 119. On April 30, 2018, the Individual Defendants held a conference call with investors
 18 and analysts to discuss the Company's financial and operational results for the first quarter of 2018.
 19 During the call, defendant Krzeminski stated that "Large Projects segment revenues increased 20%
 20 year-over-year in the first quarter to \$248.4 million. First quarter gross profit margin of 8.2% reflects
 21 nearly 700 basis points of year-over-year improvement."

22 120. On May 1, 2018, the Individual Defendants caused the Company to file a Form 10-
 23 Q with the SEC ("1Q18 Form 10-Q"), which was signed by defendant Krzeminski. Defendants
 24 Roberts and Krzeminski signed certifications pursuant the Sarbanes-Oxley Act of 2002 ("SOX")
 25 attesting to compliance with Sections 13(a) or 15(d) of the Exchange Act, and stating in relevant
 26 part that the 1Q18 Form 10-Q "does not contain any untrue statement of a material fact or omit to
 27 state a material fact necessary to make the statements made, in light of the circumstances under

1 which such statements were made, not misleading with respect to the period covered by this report”
 2 and that “the information contained in the report on Form 10-Q fairly presents in all material respects
 3 the financial condition and results of operations of the Company as of and for the periods expressed
 4 in the report on Form 10-Q.”

5 121. The 1Q18 Form 10-Q stated, in relevant part:

6 **Large Project Construction**

7 The changes in project profitability from revisions in estimates, both increases and
 8 decreases, which individually had an impact of \$1.0 million or more on gross profit,
 9 were decreases of \$7.9 million and \$13.0 million for the three months ended March
 10 31, 2018 and 2017, respectively.

11 * * *

12 As of March 31, 2018, there were four projects for which additional costs were
 13 reasonably possible in excess of the probable amounts included in the cost forecast.
 14 The reasonably possible aggregate range that has the potential to adversely impact
 15 gross profit during the year ended December 31, 2018 was zero to \$47.0 million.

16 * * *

17 Large Project Construction revenue for the three months ended March 31, 2018
 18 increased by \$41.4 million, or 20.0%, when compared to 2017 primarily due to
 19 increased beginning backlog and progress on new projects in our Heavy Civil
 20 operating group.

21 * * *

22 Large Project Construction gross profit for the three months ended March 31, 2018
 23 increased by \$17.8 million, or over 100%, when compared to 2017. Large Project
 24 Construction gross profit as a percentage of segment revenue for the three months
 25 ended March 31, 2018 increased to 8.2% from 1.2% when compared to 2017.

26 * * *

27 During the three months ended March 31, 2018 and 2017, unconsolidated
 28 construction joint venture net (loss) income was \$(141.0) million and \$8.6 million,
 29 respectively, of which our post-adjustment share was net income of \$2.6 million
 30 and \$1.5 million, respectively.

31 122. The 1Q18 Form 10-Q further stated:

32 We recognize revenue in accordance with Topic 606.

33 * * *

1 Our profit recognition related to construction contracts is based on estimates of
2 costs to complete each project.

2 * * *

3 Changes are made to the transaction price from unapproved change orders to the
4 extent the amount can be reliably estimated and recovery is probable.

4 * * *

5 Revenue in our [Large Project Construction or Transportation] segments is
6 ordinarily recognized over time as control is transferred to the customers by
7 measuring the progress toward complete satisfaction of the performance
obligation(s) using an input (i.e., “cost to cost”) method.

8 * * *

9 Cost estimates for all of our significant projects use a detailed “bottom up”
10 approach, and we believe our experience allows us to create materially reliable
estimates.

11 * * *

12 When we experience significant changes in our estimates of costs to complete, we
13 undergo a process that includes reviewing the nature of the changes to ensure that
14 there are no material amounts that should have been recorded in a prior period rather
than as revisions in estimates for the current period.

15 * * *

16 [In our review of revisions in estimates,] we did not identify any material amounts
17 that should have been recorded in a prior period.

18 * * *

19 In addition to matters that are considered probable for which the loss can be
20 reasonably estimated, disclosure is also provided when it is reasonably possible and
estimable that a loss will be incurred or when it is reasonably possible that the
amount of a loss will exceed the amount recorded.

21 123. Additionally, as to the financial results of the unconsolidated joint ventures
22 specifically, including those related to the Projects, the 1Q18 Form 10-Q claimed that Granite held
23 a \$415 million interest in the assets, a \$182 million interest in the liabilities, and a \$118 million
24 interest in the revenue of the joint ventures as of March 31, 2018. The Company further added that
25 Granite’s \$415 million interest in the assets of the joint ventures as of March 31, 2018 included “\$65
26 million . . . related to Granite’s share of estimated cost recovery of customer affirmative claims.”

27

1 124. The statements identified in ¶¶ 119-123 were materially false and misleading
 2 because:

3 (1) Granite's reported revenues and margins in the Large Project Construction segment were
 4 inflated by the Company's improper accounting for the Projects, which violated GAAP by
 5 inflating the Projects' transaction price and ignoring cost overruns exceeding \$1.3 billion
 6 that were known to the Individual Defendants at the time;

7 (2) Granite's "reasonably possible aggregate range that has the potential to adversely impact
 8 gross profit during the year ended December 31, 2018" was magnitudes larger at the time
 9 than the reported range;

10 (3) Granite's reported improvements in revenue, gross profit, and margins in the Large
 11 Project Construction segment were predicated on the Company's improper accounting for
 12 the Projects in violation of GAAP;

13 (4) Granite's claimed interest in joint venture projects rested on inflation of the Projects'
 14 transaction price, which ignored cost overruns exceeding \$1.3 billion that were known to the
 15 Individual Defendants;

16 (5) Granite violated Topic 606 by prematurely including revenue from disputed claims
 17 against customers where recovery was not probable or where it was likely that a significant
 18 revenue reversal would occur and inflating the Projects' percentage of completion by
 19 ignoring the Projects' known cost overruns;

20 (6) Granite improperly inflated the Projects' transaction price by including substantial
 21 consideration from claims against customers on the I-4 and Tappan Zee Projects, while
 22 knowing in each case that recovery was not "probable" and/or "estimable;"

23 (7) Granite improperly inflated the Projects' transaction price by including substantial
 24 consideration from unapproved change orders from which recovery was not "probable"
 25 and/or the amount could not be "reliably estimated;"

26 (8) Granite manipulated and overstated its percentage of completion for the Projects, such
 27 that Granite's revenue recognition did not properly reflect "progress toward complete
 28 satisfaction of the performance obligation(s)" or the transfer of control to Granite's
 29 customers;

30 (9) Granite did not update its estimated total costs "as soon as the obligation to perform is
 31 determined," but instead ignored known cost overruns to prematurely recognize revenue and
 32 overstate profits;

33 (10) Granite did not determine estimated total costs with a "detailed 'bottom up' approach,"
 34 and did not seek to "create materially reliable estimates," but instead ignored known cost
 35 overruns to prematurely recognize revenue and overstate profits;

36 (11) Granite did not properly ensure that "there are no material amounts that should have
 37 been recorded in a prior period," but instead ignored known cost overruns to prematurely
 38 recognize revenue and overstate profits;

1 (12) Granite intentionally ignored “material amounts that should have been recorded in a
 2 prior period,” by ignoring known cost overruns to prematurely recognize revenue and
 3 overstate profits; and
 4

5 (13) Granite failed to disclose at least \$338.5 million in known “additional cost” overruns
 6 and, in 4Q18 and 1Q and 2Q19, failed to disclose any “reasonably possible” cost overruns,
 7 in violation of GAAP and the Company’s stated accounting policies.”
 8

9 **B. Materially False Statements Surrounding the Company’s Financial and Operational
 10 Results for the Second Quarter of 2018**

11 125. On August 8, 2018, the Individual Defendants held a conference call with investors
 12 and analysts to discuss the Company’s financial and operational results for the second quarter of
 13 2018. During the call, defendant Roberts stated that “Rounding our operational performance review,
 14 we look now to the Large Project Construction segment, which produced steady revenue
 15 improvement and modestly improved second quarter profit performance from last year.”
 16

17 126. On the same call, defendant Desai added that “Large Project Segment revenues
 18 increased 7.7% year-over-year in the second quarter to \$273.9 million with segment gross profit and
 19 margin both finishing slightly better than last year.”
 20

21 127. On August 8, 2018, the Individual Defendants caused the Company to file a Form
 22 10-Q with the SEC (“2Q18 Form 10-Q”), which was signed by defendant Desai. Defendants Roberts
 23 and Desai signed certifications pursuant to SOX substantially similar to those described in ¶ 120.
 24

25 128. The 2Q18 Form 10-Q stated, in relevant part:

26 **Large Project Construction**

27 The changes in project profitability from revisions in estimates, both increases and
 28 decreases, which individually had an impact of \$1.0 million or more on gross profit,
 29 were net decreases of \$30.3 million and \$39.8 million for the three and six months
 30 ended June 30, 2018, respectively. The changes for the three and six months ended
 31 June 30, 2017 were decreases of \$23.8 million and \$37.8 million, respectively.
 32

33 * * *

34 As of June 30, 2018, there were three projects for which additional costs were
 35 reasonably possible in excess of the probable amounts included in the cost forecast.
 36 The reasonably possible aggregate range that has the potential to adversely impact
 37 gross profit during the year ended December 31, 2018 was zero to \$15.0 million.
 38

39 * * *

40 Large Project Construction revenue for the three and six months ended June 30,
 41 2018 increased by \$19.5 million, or 7.7%, and \$60.9 million, or 13.2%,
 42

1 respectively, when compared to 2017 primarily due to increased beginning backlog
 2 and progress on new projects in our Heavy Civil operating group.

3 * * *

4 Large Project Construction gross profit for the three and six months ended June 30,
 5 2018 increased by \$0.8 million, or over 100%, and \$18.7 million, or over 100%,
 6 respectively, when compared to 2017. Large Project Construction gross profit as a
 7 percentage of segment revenue for the three and six months ended June 30, 2018
 8 increased to 0.5% from 0.2% and from 0.7% to 4.2%, respectively, when compared
 9 to 2017.

10 * * *

11 During the three and six months ended June 30, 2018, unconsolidated construction
 12 joint venture net income (loss) was \$26.5 million and (\$114.4) million,
 13 respectively, of which our post-adjustment share were net losses of (\$17.7) million
 14 and (\$13.4) million, respectively. During the three and six months ended June 30,
 15 2017, unconsolidated construction joint venture net income was \$17.6 million and
 16 \$26.2 million, respectively, of which our post-adjustment share were net losses of
 17 (\$9.7) million and (\$8.2) million, respectively.

18 129. The 2Q18 Form 10-Q went on to repeat the statements listed in ¶ 122:

19 130. Additionally, as to the financial results of the unconsolidated joint ventures
 20 specifically, including those related to the Projects, the 2Q18 Form 10-Q claimed that Granite held
 21 a \$431 million interest in the assets, a \$193 million interest in the liabilities, and a \$110 million
 22 interest in the revenue of the joint ventures as of June 30, 2018. The Company further added that
 23 Granite's \$431 million interest in the assets of the joint ventures as of March 31, 2018 included
 24 "\$65.8 million . . . related to Granite's share of estimated cost recovery of customer affirmative
 25 claims."

26 131. The statements identified in ¶¶ 125-130 were materially false and misleading
 27 because:

28 (1) Granite's reported revenues and margins in the Large Project Construction segment were
 29 inflated by the Company's improper accounting for the Projects, which violated GAAP by
 30 inflating the Projects' transaction prices and ignoring cost overruns exceeding \$1.3 billion
 31 that were known to the Individual Defendants at the time;

32 (2) Granite's reported net decrease to project profitability during the three months ended June
 33 30, 2018 rested on Granite's improper accounting for the Projects;

34 (3) Granite's "reasonably possible aggregate range that has the potential to adversely impact
 35 gross profit during the year ended December 31, 2018" was magnitudes larger at the time
 36 than the reported range;

1 (4) Granite's reported improvements in revenue, gross profit, and margins in the Large
 2 Project Construction segment were predicated on the Company's improper accounting for
 3 the Projects in violation of GAAP;

4 (5) Granite's claimed interest in joint venture projects rested on inflation of the Projects'
 5 transaction prices, which ignored cost overruns exceeding \$1.3 billion that were known to
 6 the Individual Defendants;

7 (6) Granite violated Topic 606 by prematurely including revenue from disputed claims
 8 against customers where recovery was not probable or where it was likely that a significant
 9 revenue reversal would occur and inflating the Projects' percentage of completion by
 10 ignoring the Projects' known cost overruns;

11 (7) Granite improperly inflated the Projects' transaction price by including substantial
 12 consideration from claims against customers on the I-4 and Tappan Zee Projects, while
 13 knowing in each case that recovery was not "probable" and/or "estimable";

14 (8) Granite improperly inflated the Projects' transaction price by including substantial
 15 consideration from unapproved change orders from which recovery was not "probable"
 16 and/or the amount could not be "reliably estimated;"

17 (9) Granite manipulated and overstated its percentage of completion for the Projects, such
 18 that Granite's revenue recognition did not properly reflect "progress toward complete
 19 satisfaction of the performance obligation(s)" or the transfer of control to Granite's
 20 customers;

21 (10) Granite did not update its estimated total costs "as soon as the obligation to perform is
 22 determined," but instead ignored known cost overruns to prematurely recognize revenue and
 23 overstate profits;

24 (11) Granite did not determine estimated total costs with a "detailed 'bottom up' approach,"
 25 and did not seek to "create materially reliable estimates," but instead ignored known cost
 26 overruns to prematurely recognize revenue and overstate profits;

27 (12) Granite did not properly ensure that "there are no material amounts that should have
 28 been recorded in a prior period," but instead ignored known cost overruns to prematurely
 recognize revenue and overstate profits;

29 (13) Granite intentionally ignored "material amounts that should have been recorded in a
 30 prior period," by ignoring known cost overruns to prematurely recognize revenue and
 31 overstate profits; and

32 (14) Granite failed to disclose at least \$338.5 million in known "additional cost" overruns
 33 and, in 4Q18, 1Q19, and 2Q19, failed to disclose any "reasonably possible" cost overruns,
 34 in violation of GAAP and the Company's stated accounting policies."

35 **C. Materially False Statements Surrounding the Company's Financial and Operational
 36 Results for the Third Quarter of 2018**

37 132. On October 26, 2018, the Individual Defendants held a conference call with investors
 38 and analysts to discuss the Company's financial and operational results for the third quarter of 2018.
 39 During the call, defendant Desai stated: "In the third quarter, Transportation segment revenue
 40

1 decreased 2.2% year-over-year to \$610.8 million. On a year-to-date basis, segment revenue has
 2 increased 3.5% from 2017 to \$1.47 billion. Quarterly gross profit increased 8.3% year-over-year
 3 with gross profit margin of 11.6%, up more than 100 basis points from last year. Year-to-date gross
 4 profit increased 15.4% with a resulting gross profit margin of 9.4%, up about 100 basis points from
 5 2017.”

6 133. On October 29, 2018, the Individual Defendants caused the Company to file a Form
 7 10-Q with the SEC (“3Q18 Form 10-Q”), which was signed by defendant Desai. Defendants Roberts
 8 and Desai signed certifications pursuant to SOX substantially similar to those described in ¶ 120.

9 134. The 3Q18 Form 10-Q stated, in relevant part:

10 The changes in project profitability from revisions in estimates, which individually
 11 had an impact of \$5.0 million or more on gross profit, were decreases of \$19.3
 12 million and \$57.8 million for the three and nine months ended September 30, 2018,
 13 respectively.

14 * * *

15 As of September 30, 2018, there were four projects for which additional costs were
 16 reasonably possible in excess of the probable amounts included in the cost forecast.
 17 The reasonably possible aggregate range that has the potential to adversely impact
 18 gross profit is zero to \$45.0 million.

19 * * *

20 Transportation revenue for the three and nine months ended September 30, 2018
 21 decreased by \$13.9 million, or 2.2%, and increased by \$49.3 million, or 3.5%,
 22 respectively, when compared to 2017.

23 * * *

24 Transportation gross profit for the three and nine months ended September 30, 2018
 25 increased by \$5.4 million, or 8.3%, and \$18.5 million, or 15.4%, respectively, when
 26 compared to 2017.

27 * * *

28 During the three and nine months ended September 30, 2018, unconsolidated
 29 construction joint venture net losses were \$(47.6) million and \$(162.0) million,
 30 respectively, of which our post-adjustment share were net losses of \$(3.1) million
 31 and \$(16.5) million, respectively. During the three and nine months ended
 32 September 30, 2017, unconsolidated construction joint venture net income was
 33 \$31.0 million and \$57.2 million, respectively, of which our post-adjustment share
 34 were net losses of \$(7.1) million and \$(15.3) million, respectively.

1 135. The 3Q18 Form 10-Q went on to repeat the statements listed in ¶ 122.

2 136. Additionally, as to the financial results of the unconsolidated joint ventures
 3 specifically, including those related to the Projects, the 3Q18 Form 10-Q claimed that Granite held
 4 a \$442 million interest in the assets, a \$180 million interest in the liabilities, and a \$151 million
 5 interest in the revenue of the joint ventures as of September 30, 2018. The Company further added
 6 that Granite's \$442 million interest in the assets of the joint ventures as of March 31, 2018 included
 7 "\$67.1 million . . . related to Granite's share of estimated cost recovery of customer affirmative
 8 claims."

9 137. The statements identified in ¶¶ 132-136 were materially false and misleading for
 10 reasons stated in ¶ 131(1), (3)-(14) and because Granite's reported net decrease to project
 11 profitability during the three months ended June 30, 2018 rested on Granite's improper accounting
 12 for the Projects.

13 **D. Materially False Statements Surrounding the Company's Financial and Operational
 14 Results for the Fourth Quarter of 2018 and 2018 Annually**

15 138. On February 20, 2019, the Individual Defendants held a conference call with
 16 investors and analysts to discuss the Company's financial and operational results for the fourth
 17 quarter of 2018 and 2018 annually. During the call, defendant Desai stated:

18 In the fourth quarter Transportation segment revenue decreased 3.8% year-over-year
 19 to \$504 million. In spite of the late year drag, full-year segment revenue increased to
 20 \$1.98 billion, up 1.5% from last year.

21 Quarterly gross profit increased 2.8% year-over-year with a gross profit margin of
 22 10.2%, up 66 basis points from last year. We created solid leverage in this segment
 23 with the gross profit increasing 11.7% in 2018 and the gross profit margin up 88 basis
 24 points year-over-year to 9.6%.

25 139. On February 22, 2019, the Individual Defendants caused the Company to file a Form
 26 10-K with the SEC ("2018 Form 10-K"), which was signed by defendants Desai, Bjork, Roberts,
 27 Bradford, Darnell, Galloway, Lyash, Krusi, Kelsey, Mastin, McNally, and Vasquez. Defendants
 28 Roberts and Desai signed certifications pursuant to SOX substantially similar to those described in
 ¶ 120.

29 140. The 2018 Form 10-K stated, in relevant part:

1 The changes in project profitability from revisions in estimates, which individually
 2 had an impact of \$5.0 million or more on gross profit, were decreases of \$86.5
 3 million, \$67.2 million and a net decrease of \$33.0 million for the years ended
 December 31, 2018, 2017 and 2016, respectively.

4 * * *

5 Included in the tables above for the years ended December 31, 2018, 2017 and 2016
 6 is the impact to gross profit from changes in estimated contract revenue and costs of
 7 \$18.2 million, \$34.3 million and \$51.3 million, respectively, related to revisions in
 estimates from the estimated cost recovery of customer affirmative claims and back
 charges. Generally, increases in estimated contract costs are in excess of estimated
 cost recovery from affirmative claims and back charges.

8 * * *

9 Transportation revenue in 2018 increased \$29.3 million, or 1.5%, compared to 2017
 10 due to entering the year with greater contract backlog in the Heavy Civil, California
 11 and Midwest operating groups as well as improved success rate on bidding activity
 in the California and Midwest groups.

12 * * *

13 Transportation gross profit for the year ended December 31, 2018 increased by \$19.9
 14 million, or 11.7%, when compared to 2017 primarily due to increased revenue
 15 volume and margin improvement in our California operating group due to an increase
 16 in highway rehabilitation work partially offset by a decline in our Northwest
 17 operating group from reduced revenue volume and in our Heavy Civil operating
 group from a net negative impact from revisions in estimates (see Note 3 of "Notes
 to the Consolidated Financial Statements" for more information). Transportation
 gross margin as a percentage of segment revenue for 2018 increased to 9.6% from
 8.7% in 2017.

18 * * *

19 During the years ended December 31, 2018, 2017 and 2016, unconsolidated
 20 construction joint venture net (loss) income was (\$240.3) million, \$62.2 million and
 \$41.8 million, respectively, of which our share was (\$22.6) million, (\$14.4) million
 and \$15.6 million, respectively.

21 141. The 2018 Form 10-K went on to repeat the statements listed in ¶ 122.

22 142. Additionally, as to the financial results of the unconsolidated joint ventures
 23 specifically, including those related to the Projects alleged above, the 2018 Form 10-K claimed that
 24 Granite held a \$426 million interest in the assets, a \$155 million interest in the liabilities, and a \$155
 25 million interest in the revenue of the joint ventures for the year ended December 31, 2018. The
 26 Company further added that Granite's \$426 million interest in the assets of the joint ventures as of
 27

1 March 31, 2018, included “\$78.1 million . . . related to Granite’s share of estimated cost recovery of
 2 customer affirmative claims.”

3 143. Further, the 2018 Form 10-K omitted any disclosure of projects for which additional
 4 costs were reasonably possible, or the reasonably possible aggregate range of such additional costs,
 5 contrary to GAAP’s disclosure requirement. This material omission violated ASC 450 and was
 6 materially false and misleading because it falsely suggested to investors that no further costs were
 7 reasonably possible, and no charges were being contemplated. In reality, Granite’s reasonably
 8 possible aggregate range of additional costs included cost overruns of at least \$338.5 million.

9 144. The statements identified in ¶¶ 138-143 were materially false and misleading for the
 10 reasons stated in ¶ 131(1), (4)-(14) and because Granite’s reported net decrease to project
 11 profitability for the year ended December 31, 2018 rested on Granite’s improper accounting for the
 12 Projects and the Form 10-K omitted any disclosure of projects for which additional costs were
 13 reasonably possible, or the reasonably possible aggregate range of such additional costs, contrary to
 14 GAAP’s disclosure requirement.

15 **E. Materially False Statements Surrounding the Company’s Financial and Operational
 16 Results for the First Quarter of 2019**

17 145. On April 26, 2019, the Individual Defendants held a conference call with investors
 18 and analysts to discuss the Company’s financial and operational results for the first quarter of 2018.
 19 During the call, defendant Desai stated that “Transportation segment revenues declined about 6%,
 20 with weather headwinds, especially in California, the largest driver of the revenue and of the year-
 over-year margin decrease to 6.3%.”

21 146. On April 26, 2019, the Individual Defendants caused the Company to file a Form 10-
 22 Q with the SEC, which stated, in relevant parts:

23 The changes in project profitability from revisions in estimates including estimated
 24 cost recovery of customer affirmative claims and back charges, which individually
 25 had an impact of \$5.0 million or more on gross profit, were decreases of \$5.7 million
 26 and \$5.3 million for one project during each of the three months ended March 31,
 27 2019 and 2018, respectively.

28 * * *

1 Transportation revenue for the three months ended March 31, 2019 decreased by
 2 \$20.9 million, or 5.8%, when compared to 2018.

3 * * *

4 Transportation gross profit for the three months ended March 31, 2019 decreased by
 5 \$10.2 million, or 32.5%, when compared to 2018.

6 147. Additionally, as to the financial results of the unconsolidated joint ventures
 7 specifically, including those related to the Projects above, the Form 10-Q claimed that Granite held
 8 a \$458 million interest in the assets, a \$160 million interest in the liabilities, and a \$131 million
 9 interest in the revenue of the joint ventures as of March 31, 2019. The Company further added that
 10 Granite's \$458 million interest in the assets of the joint ventures as of March 31, 2019, included
 11 “\$80.8 million . . . related to Granite's share of estimated cost recovery of customer affirmative
 12 claims.”

13 148. Further, the Form 10-Q omitted any disclosure of projects for which additional costs
 14 were reasonably possible, or the reasonably possible aggregate range of such additional costs,
 15 contrary to GAAP's disclosure requirement. This material omission violated ASC 450 and was
 16 materially false and misleading because it falsely suggested to investors that no further costs were
 17 reasonably possible, and no charges were being contemplated. In reality, Granite's reasonably
 18 possible aggregate range of additional costs included cost overruns of at least \$338.5 million.

19 149. The statements identified in ¶¶ 145-148 were materially false and misleading for the
 20 reasons stated in ¶124(1), (4)-(5) and because Granite's reported net decrease to project profitability
 21 for the three months ended March 31, 2019 and 2018, respectively, rested on Granite's improper
 22 accounting for the Projects and the Form 10-Q omitted any disclosure of projects for which
 23 additional costs were reasonably possible, or the reasonably possible aggregate range of such
 24 additional costs, contrary to GAAP's disclosure requirement.

25

26

27

28

F. Materially False Statements Surrounding the Company's Financial and Operational Results for the Second Quarter of 2019

150. On August 2, 2019, the Individual Defendants held a conference call with investors and analysts to discuss the Company's financial and operational results for the first quarter of 2018. During the call, defendant Desai stated:

Second quarter 2019 results included non-cash pre-tax charges of \$143.7 million or \$106.7 million after tax. These costs are reflected in the transportation segment with both a reduction of revenue of \$114.2 million, and increased cost of \$29.5 million.

... In the second quarter, transportation segment revenue was \$404 million, which includes the reduction in revenue of \$114.2 million.

On a year-to-date basis, revenue was \$742.2 million including the revenue reduction down from \$861.9 million last year. Quarterly gross loss of \$99.9 million include charges compared to gross profit of \$36 million in the prior year. On a year-to-date basis, gross loss was \$78.6 million compared to gross profit of \$67.4 million in the prior year

151. During the same call, in response to a question regarding Granite's large projects, defendant Roberts stated:

We also believe that we have covered our current challenges and future risks in the heavy civil group adjustments that we made in those four legacy projects that we announced on Monday And I don't see significant costs. But of course, there will be some as we move forward. But we have embedded that.

152. On August 6, 2019, the Individual Defendants caused the Company to file a Form 10-Q with the SEC (“1Q19 Form 10-Q”), which was signed by defendant Desai. Defendants Roberts and Desai signed certifications pursuant to SOX substantially similar to those described in ¶ 120.

153. The 1Q19 Form 10-Q stated, in relevant part:

For the three and six months ended June 30, 2019, revisions in estimates, including estimated cost recovery of customer affirmative claims and back charges, that individually had an impact of \$5.0 million or more on gross profit resulted in decreases to gross profit and loss before (benefit from) provision for income taxes of \$161.1 million and \$167.8 million, respectively, and decreases in net loss of \$120.2 million and \$125.4 million (\$2.57 and \$2.68 per share), respectively.

* * *

Transportation revenue for the three and six months ended June 30, 2019 decreased by \$98.7 million, or 19.6%, and \$119.7 million, or 13.9%, respectively, when compared to 2018.

* * *

1 Transportation gross loss for the three and six months ended June 30, 2019 increased
 2 by \$135.8 million, or over 100%, and \$146.1 million, or over 100%, respectively,
 3 when compared to 2018.

4 * * *

5 During the three and six months ended June 30, 2019, unconsolidated construction
 6 joint venture net loss was \$(18.9) million and \$(13.7) million, respectively, of which
 7 our share was net loss of \$(106.3) million and \$(105.8) million, respectively. During
 8 the three and six months ended June 30, 2018, unconsolidated construction joint
 9 venture net income (loss) was \$26.5 million and \$(114.4) million, respectively.

10 154. Additionally, as to the financial results of the unconsolidated joint ventures
 11 specifically, including those related to the Projects, the 1Q19 Form 10-Q claimed that Granite held
 12 a \$470 million interest in the assets, a \$287 million interest in the liabilities, and a \$144 million
 13 interest in the revenue of the joint ventures as of March 31, 2019. The Company further added that
 14 Granite's \$470 million interest in the assets of the joint ventures as of June 30, 2019, included "\$89.4
 15 million . . . related to Granite's share of estimated cost recovery of customer affirmative claims."

16 155. Further, the 1Q19 Form 10-Q omitted any disclosure of projects for which additional
 17 costs were reasonably possible, or the reasonably possible aggregate range of such additional costs,
 18 contrary to GAAP's disclosure requirement. This material omission violated ASC 450 and was
 19 materially false and misleading because it falsely suggested to investors that no further costs were
 20 reasonably possible, and no charges were being contemplated. In reality, Granite's reasonably
 21 possible aggregate range of additional costs included cost overruns of at least \$338.5 million.

22 156. The statements identified in ¶¶ 150-155 were materially false and misleading for the
 23 reasons stated in ¶ 131(1), (4)-(5) and because Granite's reported net decrease to project profitability
 24 for the three months and six months ended June 30, 2019, respectively, rested on Granite's improper
 25 accounting for the Projects and the Form 10-Q omitted any disclosure of projects for which
 26 additional costs were reasonably possible, or the reasonably possible aggregate range of such
 27 additional costs, contrary to GAAP's disclosure requirement.

28 157. Additionally, in Granite's Forms 10-Q and 10-K filed during the Relevant Period, in
 29 the section titled "Controls and Procedures," defendants Roberts, Krzeminski, and Desai affirmed
 30 that they had conducted an evaluation of "the effectiveness of our disclosure controls and

1 procedures” under the Exchange Act, and that Granite’s “disclosure controls and procedures were
 2 effective” In addition, as noted, the Forms 10-Q and 10-K contained SOX certifications signed
 3 by defendants Roberts, Krzeminski, and Desai attesting to the Form’s accuracy with respect to the
 4 financial reporting and the disclosure of all fraud.

5 158. These statements regarding the Company’s disclosure controls were false and
 6 misleading because contrary to their SOX certifications, defendants Roberts, Krzeminski, and Desai
 7 knew that the Forms contained false and/or misleading statements of material fact and that the
 8 financial statements and other financial information included in the Forms violated GAAP and did
 9 not fairly present in all material respects the financial condition and results of operations of the
 10 Company during the Relevant Period.

11 **THE TRUTH BEGINS TO EMERGE**

12 159. On July 29, 2019, Granite reported preliminary results for its second quarter of 2019
 13 and announced that it had incurred after-tax charges ranging between \$104-\$108 million for all four
 14 of the Projects—ultimately resulting in a pre-tax charge of \$143.7 million. According to Granite,
 15 the charges stemmed from cost overruns, which were exacerbated by schedule delays, execution of
 16 a significant amount of disputed work, and a recent unfavorable court ruling on a project dispute.

17 160. On August 2, 2019, the Company reported results for its second quarter of 2019 and
 18 announced that it was forced to take a \$143.7 million pre-tax charge (\$106.7 million after tax).
 19 Granite confirmed that the charge was driven by four projects bid between 2012 and 2014 that were
 20 each over \$1 billion in value, in an unconsolidated joint venture, subject to a fixed-price design build
 21 contract, and for which Granite was a minority partner. The I-4 Project, Tappan Zee Project,
 22 PennDOT Project, and Texas Project are the only four projects that satisfy those criteria. This \$143.7
 23 million pre-tax charge is roughly eight times larger than the average quarterly charge that Granite
 24 recognized in the Transportation or Large Project Construction segments in prior quarters during the
 25 Relevant Period.

26 161. Granite falsely attempted to blame the charge on recent events and unanticipated
 27 costs. According to Roberts, “Through our quarterly project review and estimate to complete

1 updates, our teams reported in late June that they had experienced increased project completion costs
 2 in the second quarter of 2019.” Desai similarly attempted to falsely blame the charge on “significant
 3 unanticipated project costs.”

4 162. Neither Roberts nor Desai, however, attempted to explain how four unrelated projects
 5 in four different states with different joint venture partners that the Company repeatedly stated were
 6 nearly complete after years of construction, could all have incurred massive, unexpected charges in
 7 the same three-month period.

8 163. Analysts were surprised. On the Company’s August 2, 2019 earnings call for the
 9 second quarter of 2019, an analyst from Goldman Sachs asked: “Can you give us a rough
 10 understanding out of the project write-downs this quarter, what proportion of that was to the single
 11 project, that’s only 60% complete versus the other three that are over 90% complete? And can you
 12 say more about your review process this quarter and what triggered the review? I certainly
 13 understand the comments on rainfall and litigation, but this is a really big adjustment and presumably
 14 you were contemplating making the adjustment last quarter to some extent, because I don’t think I
 15 saw any big catalysts this quarter outside the litigation so maybe can you talk about your process
 16 there as well.” Roberts parried in response, stating that the Company would not talk about individual
 17 projects. The Goldman Sachs analyst then insisted, stating, “the implications for the stock are really
 18 different if a big chunk of the charges comes from a project that’s only two-thirds complete versus
 19 the ones that are scheduled to reach completion this year.” Roberts answered that the issues were
 20 “cumulative in these four projects” and that Granite uncovered the cost overruns from performing
 21 “standard protocol issues that we are doing every quarter on these large projects.”

22 164. Jarred by the magnitude of the charge, during the same call, an analyst from Cowen
 23 asked: “And then what gives you comfort that the current projects don’t need to be adjusted further?
 24 Or do you feel like the write-downs and everything that’s been taken is enough to cover anything
 25 that might pop up in the future?” Roberts’ response was categorical and affirmative: “Yes. We’re
 26 confident that we have covered the current challenges and future risks in the forecast, that we have
 27 provided for not just the four legacy projects, but for all our work.” According to Roberts, Granite

1 had “covered our current challenges and future risks in the heavy civil group adjustments that we
 2 made in those four legacy projects that we announced.”

3 165. Roberts’ statements were quickly revealed to be false. On October 25, 2019, Granite
 4 announced results for the third quarter of 2019 and reported another \$69.3 million loss in its Heavy
 5 Civil Group, which was driven by an \$80.7 million decrease to project profitability on the Projects
 6 (on top of the \$161.1 million decrease in the prior quarter). Granite claimed that this loss and
 7 decrease to project profitability resulted from increased project completion costs, schedule delays,
 8 lower productivity, and performance of a significant amount of disputed work—the same types of
 9 issues that had long plagued the Projects and drove the charge announced just three months before.

10 166. At the same time, Granite announced that it had terminated Dale A. Swanberg, Senior
 11 Vice President and Large Projects Group Manager, who had been charged with overseeing the
 12 Projects.

13 167. Analysts were surprised and not pleased given Roberts’ categorical statements in the
 14 prior quarter that Granite had already booked all necessary charges. Cowen issued a report dated
 15 October 25, 2019 stating that the continued losses in Granite’s Heavy Civil Group were “Hurting
 16 Credibility” given that it had been “under the impression most of this was absorbed last [quarter].”
 17 As a result of these corrective disclosures, the price of Granite’s stock went from \$44.47 prior to the
 18 initial corrective disclosure on July 29, 2019, to \$26.25 on October 24, 2019.

19 **THE INDIVIDUAL DEFENDANTS CAUSE THE COMPANY TO REPURCHASE SUBSTANTIAL AMOUNTS
 20 OF GRANITE STOCK AT ARTIFICIALLY INFLATED PRICES**

21 168. During the Relevant Period, the Individual Defendants breached their fiduciary duties
 22 by causing the Company to repurchase its own stock at prices that were artificially inflated due to
 23 the foregoing misrepresentations.

24 169. On April 7, 2016, Granite announced that its Board had authorized the Company to
 25 purchase up to \$200 million of its common stock at management’s discretion (the “2016 Repurchase
 26 Plan”).

1 170. According to the Form 10-Q that Granite filed with the SEC on April 29, 2020, “The
2 specific timing and amount of any future purchases will vary based on market conditions, securities
3 law limitations and other factors.”

4 171. According to Granite's own Forms 10-K and 10-Q filed with the SEC, Granite did
5 not make any stock repurchases under the 2016 Repurchase Plan prior to the Relevant Period.

6 172. In late 2018, however, during the Relevant Period, Granite's management began to
7 repurchase Granite stock pursuant to the 2016 Repurchase Plan.

8 173. According to the Form 10-K Granite filed with the SEC on February 22, 2019, the
9 Company spent \$9,999,971 to acquire 252,072 shares of Granite common stock, implying a price of
10 approximately \$39.67 per share.

11 174. Through the repurchases, the Individual Defendants falsely signaled to the market
12 that they believed Granite shares were undervalued and that the repurchases were the best use of
13 Granite’s cash. In reality, given when management caused the Company to repurchase its own
14 stock—during the Relevant Period—the Company vastly overpaid for its own stock as a result of
15 acquiring artificially overvalued stock. Specifically, the \$39.67 per share was far greater than the
16 \$26.25 per share that Granite stock was worth after the fraud was revealed. Accordingly, Granite
17 was harmed by at least \$3,383,081, the total difference between the repurchase value and the post-
18 revelation share value.

DAMAGES TO THE COMPANY

20 175. As a result of the Individual Defendants' wrongful conduct, Granite disseminated
21 false and misleading statements and omitted material information to make such statements false and
22 misleading when made. The improper statements have devastated Granite's credibility. Granite has
23 been, and will continue to be, severely damaged and injured by the Individual Defendants'
24 misconduct.

25 176. As a result of the Individual Defendants' misconduct, Granite has sustained damages,
26 including, but not limited to, costs and expenses incurred from having to defend and possibly settle
27 the Securities Class Action.

1 177. As a direct and proximate result of the Individual Defendants' actions as alleged
2 above, Granite's market capitalization has been substantially damaged, losing almost a billion
3 dollars in value as a result of the conduct described herein. Specifically, Granite's share price
4 increased to a high of \$48.18 on the Individual Defendants' false and misleading statements in
5 connection with the Company's third quarter results, only to fall to a share price of \$26.25 on
6 October 24, 2019, when the truth about Granite's business was revealed by the Individual
7 Defendants.

8 178. Moreover, these actions have irreparably damaged Granite's corporate image and
9 goodwill. For at least the foreseeable future, Granite will suffer from what is known as the "liar's
10 discount," a term applied to the stocks of companies who have been implicated in illegal behavior
11 and have misled the investing public, such that Granite's ability to raise equity capital or debt on
12 favorable terms in the future is now impaired.

DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS

14 179. Plaintiff brings this action derivatively for the benefit of the Company to redress
15 injuries suffered and to be suffered as a proximate result of the Individual Defendants' breaches of
16 fiduciary duties and other violations of law.

17 180. Plaintiff will adequately and fairly represent the interests of the Company and its
18 stockholders in enforcing and prosecuting its rights.

19 181. Plaintiff is an owner of Granite common stock and was an owner of Granite common
20 stock at all times relevant hereto.

21 182. At the time this action was commenced, the Board consisted of the twelve Director
22 Defendants. Because of the facts set forth throughout this Complaint, at least eight of the twelve
23 defendants are incapable of making an independent and disinterested decision to institute and
24 vigorously prosecute this action and so demand on the Board to institute this action is not necessary
25 because such a demand would have been a futile and useless act.

1 **DEMAND IS FUTILE AS TO ALL DIRECTOR DEFENDANTS BECAUSE THE DIRECTOR DEFENDANTS
FACE A SUBSTANTIAL LIKELIHOOD OF LIABILITY**

2 183. The Director Defendants face a substantial likelihood of liability for their individual
3 misconduct. The Director Defendants were directors throughout the time of the false and misleading
4 statements referenced above, and as such had a fiduciary duty to ensure that the Company's SEC
5 filings, press releases, and other public statements and presentations concerning its business,
6 operations, prospects, internal controls, and financial statements were accurate.

7 184. Moreover, the Director Defendants owed a duty to, in good faith and with due
8 diligence, exercise reasonable inquiry, oversight, and supervision to ensure that the Company's
9 internal controls were sufficiently robust and effective (and/or were being implemented effectively),
10 and to ensure that the Board's duties were being discharged in good faith and with the required
11 diligence and due care. Instead, the Director Defendants knowingly and/or with reckless disregard
12 reviewed, authorized, and/or caused the publication of the materially false and misleading statements
13 discussed above that caused the Company's stock to trade at artificially-inflated prices and
14 misrepresented the financial health of Granite.

15 185. The Director Defendants' making or authorization of these false and misleading
16 statements, failure to timely correct such statements, failure to recognize revenue for certain
17 transactions, failure to take necessary and appropriate steps to ensure that the Company's internal
18 controls over financial reporting were sufficiently robust and effective (and/or were being
19 implemented effectively), and failure to take necessary and appropriate steps to ensure that the
20 Board's duties were being discharged in good faith and with the required diligence constitute
21 breaches of fiduciary duties and have resulted in the Director Defendants facing a substantial
22 likelihood of liability as, unbeknownst to investors, Granite was incapable of meeting its fiscal year
23 2020 revenue outlook as represented by the Director Defendants.

24 186. In addition, the Director Defendants face a substantial likelihood of liability for
25 breaching their fiduciary duties by making or authorizing the false and misleading statements that
26 inflated the Company's stock price and then permitting the repurchase of over \$10 million worth of
27 Granite stock at an inflated price.

1 187. If the Director Defendants were to bring a suit on behalf of Granite to recover
 2 damages sustained as a result of this misconduct, they would expose themselves to significant
 3 liability. This is something they will not do. For this reason, demand is futile.

4 **THE AUDIT COMMITTEE DEFENDANTS ARE NOT DISINTERESTED AS THEY FACE A SUBSTANTIAL
 5 LIKELIHOOD OF LIABILITY**

6 188. The Audit Committee Defendants were members of the Audit Committee at the time
 7 the Company lacked proper internal controls and the improper statements detailed herein were
 8 issued. Pursuant to the Audit Committee's Charter, the members of the Audit Committee were and
 9 are responsible for, *inter alia*, reviewing the Company's financial reports, the Company's business
 10 and financial risk management practices, the Company's legal and regulatory compliance, and the
 11 integrity of the Company's financial statements and internal controls. Notably, in performing these
 12 duties, the Audit Committee Defendants were required to discuss with management and the
 13 Company's independent auditor the annual financial statements and all SEC filings before they were
 14 filed. The Audit Committee Defendants breached their fiduciary duties by allowing the Company
 15 to make the improper statements discussed above. The Audit Committee Defendants each face a
 16 substantial likelihood of liability for their breaches of fiduciary duties, and, therefore, any demand
 17 upon them is futile.

18 **DEMAND IS FUTILE AS TO DEFENDANT ROBERTS**

19 189. Defendant Roberts lacks independence for purposes of demand futility because his
 20 principal occupation is President and CEO of Granite. As such, the DEF 14A filed by the Company
 21 with the SEC on April 23, 2019 (the "2019 Proxy") admits that Roberts is not independent.
 22 According to the 2019 Proxy, in 2019, Roberts received total compensation of \$4,126,623 and this
 23 amount is material to him. Further, Roberts is incapable of considering a demand to commence and
 24 vigorously prosecute this action because he faces additional substantial likelihood of liability as he
 25 is a named defendant in the Securities Class Action.

1

COUNT I

Against the Individual Defendants

for Breach of Fiduciary Duty

2

3 190. Plaintiff incorporates by reference and realleges each and every allegation contained
above as though fully set forth herein.

4

5 191. The Individual Defendants owe the Company fiduciary obligations. By reason of
their fiduciary relationships, the Individual Defendants owed and owe the Company the highest
6 obligations of good faith, fair dealing, loyalty, and due care.

7

8 192. The Individual Defendants, together and individually, violated and breached their
fiduciary duties of candor, good faith, and loyalty. More specifically, the Individual Defendants
9 knowingly inflated the Company's revenue, income, and margins in violation of GAAP, which
10 rendered Granite's financial results issued during the Relevant Period materially false and
11 misleading.

12

13 193. Moreover, the Individual Defendants willfully ignored the obvious problems with the
Company's internal controls, practices, and procedures and failed to make a good faith effort to
14 correct the problems or prevent their recurrence.

15

16 194. As a direct and proximate result of the Individual Defendants' breaches of their
fiduciary obligations, Granite has sustained significant damages, as alleged herein. As a result of
17 the misconduct alleged herein, these defendants are liable to the Company.

18

19 195. Plaintiff, on behalf of Granite, has no adequate remedy at law.

20

COUNT II

Against the Individual Defendants

for Unjust Enrichment

21

22 196. Plaintiff incorporates by reference and realleges each and every allegation contained
above as though fully set forth herein.

23

24 197. By their wrongful acts and omissions, the Individual Defendants were unjustly
enriched at the expense of and to the detriment of Granite. The Individual Defendants were unjustly
25 enriched by their receipt of compensation while breaching fiduciary duties owed to Granite.

26

27

198. Plaintiff, as a stockholder and representative of the Company, seeks restitution from
the Individual Defendants, and seeks an order of this Court disgorging all profits, benefits, and other
compensation obtained by the Individual Defendants, and each of them, as a result of their wrongful
conduct and fiduciary breaches.

5 199. Plaintiff, on behalf of Granite, has no adequate remedy at law.

COUNT III
Against the Individual Defendants
Under Section 10(b) of the Exchange Act and Rule 10b-5

8 200. Plaintiff incorporates by reference and realleges each and every allegation contained
9 above as though fully set forth herein.

10 201. The Individual Defendants participated in a scheme to defraud with the purpose and
11 effect of defrauding Granite. Not only is Granite now defending claims that it violated Section 10(b)
12 of the Exchange Act and Rule 10b-5 promulgated thereunder, but the Company itself is also a victim
13 of the unlawful scheme perpetrated upon Granite by the Individual Defendants. With the price of
14 its common stock trading at artificially-inflated prices due to the Individual Defendants' misconduct,
15 the Individual Defendants caused the Company to repurchase \$10 million of its own shares at
16 artificially-inflated prices, damaging Granite.

17 202. During the Relevant Period, the Individual Defendants also individually and in
18 concert, directly and indirectly, by the use and means of instrumentalities of interstate commerce
19 and/or of the mails, engaged and participated in a continuous course of conduct designed to falsify
20 the Company's press releases, public statements made in conference calls, and periodic and current
21 reports filed with the SEC.

22 203. The Individual Defendants employed devices, schemes, and artifices to defraud while
23 in possession of adverse, material, non-public information and engaged in acts, practices and a
24 course of conduct that included the making of, or participation in the making of, untrue and/or
25 misleading statements of material facts and/or omitting to state material facts necessary in order to
26 make the statements made about Granite not misleading.

1 204. The Individual Defendants, as officers and directors of the Company, are liable as
2 direct participants in the wrongs complained of herein. Through their positions of control and
3 authority as directors and officers of the Company, the Individual Defendants were able to and did
4 control the conduct complained of herein and the content of the public statements disseminated by
5 Granite. The Individual Defendants acted with scienter during the Relevant Period, in that they
6 either had actual knowledge of the schemes and the misrepresentations and/or omissions of material
7 facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and
8 to disclose the true facts, even though such facts were available to them. The Individual Defendants
9 were the top executives of the Company, or received direct briefings from them, and were therefore
10 directly responsible for the schemes set forth herein and for the false and misleading statements
11 and/or omissions disseminated to the public through press releases, conference calls, and filings with
12 the SEC.

13 205. In addition to each of the Individual Defendants approving the issuance of the
14 Company's false and misleading statements while they were serving as a senior executive and/or
15 director of the Company, each made and/or signed the Company's Form 10-Ks and 10-Qs filed with
16 the SEC during the Relevant Period.

17 206. By virtue of the foregoing, the Individual Defendants have violated Section 10(b) of
18 the Exchange Act, and Rule 10b-5 promulgated thereunder.

COUNT IV
Against the Individual Defendants
Under Section 20(a) of the Exchange Act

21 207. Plaintiff incorporates by reference and realleges each and every allegation contained
22 above as though fully set forth herein.

23 208. The Individual Defendants, by virtue of their positions with Granite and their specific
24 acts, were, at the time of the wrongs alleged herein, controlling persons of Granite within the
25 meaning of Section 20(a) of the Exchange Act. The Individual Defendants had the power and
26 influence and exercised the same to cause Granite to engage in the illegal conduct and practices
27 complained of herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

A. Declaring that Plaintiff may maintain this derivative action on behalf of Granite and that Plaintiff is a proper and adequate representative of the Company;

B. Awarding the amount of damages sustained by the Company as a result of the Individual Defendants' breaches of fiduciary duties, unjust enrichment, and violations of the federal securities laws;

8 C. Directing Granite to take all necessary actions to reform and improve its corporate
9 governance and internal procedures to comply with applicable laws and to protect Granite and its
10 stockholders from a repeat of the damaging events described herein, including, but not limited to,

- strengthening the Board’s supervision of operations and compliance with applicable state and federal laws and regulations;
- strengthening the Company’s internal reporting and financial disclosure controls;
- developing and implementing procedures for greater shareholder input into the policies and guidelines of the Board; and
- strengthening the Company’s internal operational control functions

D. Awarding to Granite restitution from the Individual Defendants, and each of them;

E. Awarding to Plaintiff the costs and disbursements of the action, including reasonable attorneys' fees, accountants' and experts' fees, costs, and expenses; and

20 F. Granting such other and further relief as the Court deems just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: May 6, 2020

Respectfully Submitted,

BRAGAR EAGEL & SQUIRE, P.C.

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